Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provision of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 7th February, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MR. T. K. GHOSE.

CALCUTTA

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, OF COSSIMBAZAR.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, OF DACCA.

The Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K.C.I.E., OF GIDHOUR.

NEW MEMBERS.

The Hon'ble MR. R. T. GREER, the Hon'ble MR. W. A. INGLIS, the Hon'ble RAI TARINI PERSHAD BAHADUR, the Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca, and the Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K.C.I.E., of Gidhour, took their seats in Council.

STATEMENT OF THE COURSE OF BUSINESS.

THE Hon'ble the PRESIDENT made a statement regarding the course of legislative business during the present Session. In doing so, he said—

"It is, I believe, the practice for the President to make a statement at the first meeting of this Council with regard to the legislative business which will be laid before it in the course of the Session. But it is impossible for me to proceed to that statement without first alluding to the sentiments which, I feel certain, are uppermost in the minds of us all this morning. The last occasion on which this Council met was the 25th of August, 1902, and its deliberations were presided over, we little thought for the last time, by the late Sir John Woodburn. He carried in him at that moment the seeds of the disease which eventually proved fatal, and he presided in much pain and weariness: in doing so he displayed, never more signally, the consideration for others, the devotion to duty, and the unselfishness which were so conspicuous in his character. The Province still deplores and will long deplore his loss, and the Members of this Council who knew him so well will never forget or cease to admire the unfailing tact, fairness and dignity with which he guided its deliberations.

"No very extensive legislation is likely to demand the attention of this Council during the present Session, for the large Bill to consolidate and amend the law in force in Bengal relating to the Excise Revenue, which has been under consideration for some years, is not yet ready to be introduced into Council, and can hardly be ready during the present Session. We shall be engaged rather upon a series of short Bills dealing with matters of less wide application, but still important enough to require legislation and careful attention. These are five in number.

"The first is the Bengal Tenancy (Validation and Amendment) Bill, 1902, which stands against the name of the Hon'ble Mr. Macpherson, and which we propose to consider with the Report of the Select Committee, and perhaps to pass to-day. The second is a short Bill to amend the Bengal Excise Act, 1878, as regards the conditions to be imposed on holders of Excise licenses in Calcutta, more especially in respect of the employment of women. The Hon'ble Mr. Collin is in charge of this Bill, and it is proposed to introduce it and to refer it to a Select Committee. That concludes the business of the Council for to-day.

"On a subsequent occasion, perhaps the 24th of this month, it is proposed to introduce the third and possibly the fourth of the measures on our programme. The first of these is, a short Bill for regulating the use of motor-cars and cycles in streets and public places in Bengal. The second is a Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act of 1879 and the Chota Nagpur Commutation Act of 1897; this may prove to be a difficult piece of legislation, and even if it be possible to introduce it during the present Session, which is not quite certain, there is no probability of the Bill being passed into law till at least the monsoon Session of this Council.

"At the third meeting of the Council to be held early in March, we hope to advance one or two stages, and perhaps pass two of the foregoing Bills, and to introduce the fifth of the new measures of this Session, viz., a Bill to amend the Chittagong Port Commissioners' Act, 1887.

"Later in the season we shall have two meetings of Council: the first to lay on the table the Provincial Budget, and the second to discuss it, and this will probably close the legislative work of the Session. We shall still be left with a Bill to amend the Salt Law, which is now held in abeyance with the large Excise Bill to which I have referred, and with another measure to which much

importance is attached by many of the landed aristocracy of Bengal and who wish them well—I mean the Bill to facilitate the family settlement of estates in Bengal. The last two of these measures are still under the consideration of the Government of India and are not yet ripe for introduction. It is hoped that they may be undertaken in July or August.

"To these tasks, Gentlemen, let us now address ourselves with that spirit of business-like industry which has long animated and characterized this Council."

QUESTIONS AND ANSWERS.

AMALGAMATION OF THE CHITTAGONG DIVISION WITH ASSAM.

THE Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said—

Will the Government be pleased to inform the Council whether it is true that the Chittagong Division will, from the 1st April 1903, be amalgamated with the Province of Assam? If so, will the Government kindly state the reasons that have induced them to order the transfer?

THE Hon'ble MR. MACPHERSON, replied—

"The Lieutenant-Governor has no information as to any such proposal having been made since this question was discussed six years ago."

LANDLORDS' FEES.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said—

Will the Government be pleased to inform the Council as to the total amount of landlords' fees realized under sections 12 and 13 of the Bengal Tenancy Act from the date of the passing of the Act down to the end of the last financial year?

Will the Government be pleased to inform the Council as to the amounts now in deposit in the Government Treasuries of the different districts of Bengal on account of the landlords' fees realized under the said sections?

The Hon'ble MR. MACPHERSON replied—

"At this moment complete information is not available to Government as to the total amount of landlords' fees realized under sections 12 and 13 of the Bengal Tenancy Act from the passing of the Act, or as to the amounts now held in deposit on this account in the different Government Treasuries.

"The Board of Revenue have been asked to furnish information, in reply to both the questions put by the Hon'ble Member, and this information, when received, will be laid upon the Council table.

"From the year 1897-98 statements have been annually published in the Board's Land Revenue Report showing the receipts and payments of landlords' fees. An abstract of these statements has been prepared and is laid upon the table for the information of Hon'ble Members."

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Macpherson; Babu Chaturbhooj Sahay.*]

Statement showing the Receipts and Payments of Landlords' fees under Sections 12 to 15 of the Bengal Tenancy Act from 1897-98 to 1901-1902 (as furnished in the Board's Land Revenue Reports for those years).

YEAR.	BURDWAN DIVISION.			PRESIDENCY DIVISIO			RAJSHAHI DIVISION.			DACCA DIVISION.		
	Amount received.	Amount paid out to landlords.	Difference of columns 2 and 3.	Amount received.	Amount paid out to landlords.	Difference of columns 5 and 6	Amount received.	Amount paid out to landlords.	Difference of columns 8 and 9.	Amount received.	Amount paid out to landlords.	Difference of columns 11 and 12.
1	2	3	4	5	6	7	8	9	10	11	12	13
	Rs.	Rs.	Rs.	Rs.	Rs	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs
1-1898 ...	6,688	1,212	*5,476*	8,651	367	*6,284*	1,484	25	*1,459*	6,312	229	*6,083*
1-1899	5,685	1,594	*4,091*	8,986	410	*8,576*	1,397	31	*1,366*	5,300	95	*5,205*
1-1900	17,837	875	*16,962*	12,578	455	*12,123*	2,017	80	*1,937*	9,575	83	*19,492*
1-1901 ...	33,749	2,175	*31,574*	27,871	477	*27,394*	3,509	102	*3,407*	22,607	183	*22,424*
-1902 ...	35,014	1,986	*33,028*	25,984	415	*25,569*	3,658	58	*3,600*	26,219	106	*26,113*

YEAR.	CHITTAGONG DIVISION			PATNA DIVISION.			BHAGALPUR DIVISION.			TOTAL.		
	Amount received.	Amount paid out to landlords.	Difference of columns 14 and 15.	Amount received	Amount paid out to landlords.	Difference of columns 17 and 18.	Amount received	Amount paid out to landlords	Difference of columns 20 and 21	Amount received.	Amount paid out to landlords.	Difference of columns 23 and 24.
	14	15	16	17	18	19	20	21	22	23	24	25
	Rs	Rs.	Rs	Rs.	Rs.	Rs	Rs.	Rs.	Rs.	Rs	Rs.	Rs.
7-1898	4,026	696	*3,330*	1,290	279	*1,011*	1,674	7	*1,667*	30,125	2,815	*27,310*
8-1899	4,007	421	*3,586*	711	67	*644*	1,245	32	*1,213*	27,531	2,650	*24,881*
9-1900	6,517	215	*6,302*	3,141	50	*3,091*	1,380	102	*1,278*	53,945	1,800	*51,185*
0-1901	21,939	1,770	*20,169*	13,569	578	*12,991*	4,915	41	*4,874*	1,28,159	5,326	*1,22,833*
1-1902 .	27,750	4,611	*23,139*	16,632	983	*15,649*	5,319	243	*5,076*	1,39,976	8,402	*1,31,574*

FEES FOR TRANSFER AND SERVICE OF NOTICE UPON LANDLORDS.

The HON'BLE MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked—

Is the Government aware that although fees for transfer and service of notice are generally levied yet as a matter of fact the notices are not served upon the landlords in a large number of cases? Will the Government kindly inquire into this matter?

The Hon'ble MR. MACPHERSON replied—

"Government has not got precise information on this subject, but an inquiry has been ordered."

REORGANIZATION OF THE SUBORDINATE PROVINCIAL CIVIL SERVICE.

The Hon'ble BABU CHATURBHOOJ SAHAY asked—

Having regard to the observations made on the 9th April last by the Hon'ble Mr. J. A. Bourdillon, C.S.I., the then Chief Secretary, now presiding at the deliberations of the Council as the Lieutenant-Governor of Bengal, during

the course of the debate on the Bengal Government Budget for the current year with reference to the re-organisation of the Subordinate Provincial Civil Service, which, to quote the words of the Hon'ble President, "is admittedly at present much depressed," may I inquire—

(*a*) if the re-organisation scheme has reached its final stage;

(*b*) when it is likely to be published and given effect to?

The Hon'ble Mr. MACPHERSON replied:—

"A scheme for the re-organisation of the Subordinate Provincial Civil Service has been submitted to the Government of India, whose orders are awaited."

PROVINCIAL CIVIL SERVICE EXAMINATION.

The Hon'ble BABU CHATURBHOOJ SAHAY said:—

Will the Government be pleased to consider the desirability of allowing Sub-Deputy Collectors to compete for the Provincial Civil Service Examination, subject to such restrictions as to age and other points as may be deemed necessary by the Government in the interests of the service?

The Hon'ble MR. MACPHERSON replied:—

"There are strong objections to allowing candidates who have accepted appointments as Sub Deputy Collectors to appear again in the examination for Deputy-Magistrateships. The Lieutenant-Governor considers that the present practice is preferable, under which promotion to the grade of Deputy Magistrates is given to selected Sub-Deputy Collectors for proved good work in the subordinate grade."

THE BENGAL TENANCY (VALIDATION AND AMENDMENT) BILL, 1902.

The Hon'ble MR. MACPHERSON presented the Report and Supplementary Reports of the Select Committee on the Bengal Tenancy (Validation and Amendment) Bill, 1902.

The Hon'ble MR. MACPHERSON also moved that the Report and Supplementary Reports be taken into consideration, and that the clauses of the Bill be considered in the forms recommended by the Select Committee. He said:—

"The changes in the Bill proposed by the Select Committee are set forth in their reports, which are in the hands of Hon'ble Members. In the opinions received by us on the Bill as it was introduced in the Council in August, we found a general agreement that it is necessary, not only to validate transfers of shares of permanent tenures and holdings at fixed rents, which have been inadvertently made without payment of the landlord's fee, but also transfers of entire tenures or holdings so made. It is also generally recommended that we should not only set right, as far as practicable, mistakes made in the past, but further declare that mistakes made in the future with regard to omission of payment of the landlord's fee shall not carry so extreme a penalty as invalidation of the transfer. We then came to the conclusion that the best way of meeting the difficulty is broadly and simply to declare that no transfer of a permanent tenure or holding at the fixed rent or share in such tenure or holding shall be invalid merely because a landlord's fee has not been paid. We were strengthened in this conclusion by finding nothing in the discussions which proceeded the passing of the Tenancy Act of 1885 to show that the framers of that measure ever contemplated that omission to pay the landlord's fee should lead to forfeiture of a tenure of holding. It is in this view that clause 1 of the amended Bill before the Council has been shaped.

"While proposing, however, to make clear that non-payment of the landlord's fee shall not invalidate a transfer, we thought it necessary to provide the landlord with a speedy means of recovery of the prescribed fee, and this we give to him in clause 2 of the Bill.

"It remains for me to draw attention to the proviso and *Explanation* to clause 1 of the Bill which have been framed to meet a serious difficulty. It will be remembered that we are legislating to remedy, so far as lies in our power, unfortunate results of mistakes made by registering officers and by the Courts, and perhaps also it may be said to set right an omission on the part of the framers of the Tenancy Act clearly to express their intention in the matter of payment of transfer fees. But in such a case there is great difficulty in setting back the clock. Transfers have been made and have been declared invalid by the Courts, on the ground that a landlord's fee has not been paid, and further transfers to third and fourth parties have been made in good faith on the strength of rulings of the Courts. What are we to do in such cases? It may be said that there is a choice of evils; but the greater evil appeared to us to be to set aside decisions of the Court which had become final. It would be more dangerous, we think, to establish such a precedent than it is harmful to leave some unredressed.

"If the Council will bear with me for a moment, I will try to explain the dilemma. A tenure-holder *A* has transferred his interest in a tenure by a registered document to *B*. But, in consequence of the erroneous orders which for some ten years obtained in the Registration Department, the landlord's fee has not been received, and *B*'s right, therefore, became insecure. If there has been no litigation our legislation will set things right. But supposing that the Courts have been asked to decide the validity of the transfer, or supposing that they have finally decided, in interpretation of the existing law, that the transfer was invalid because the landlord's fee was not paid, what remedy should we attempt to provide for this state of things? If we set aside the decisions of the Courts in order to help *B*, we may do wrong to third parties who have relied on those decisions. The Select Committee propose, therefore, to maintain the final decisions of the Courts in such cases. Whatever we do, it seems certain that we cannot satisfy every one, and some complications and hard cases must remain. The difficulties of the case have been ably pointed out in two letters written by Babu Akhil Chundra Dutta, a Zamindar and Honorary Magistrate in the Backerganj district, a district which is the special country of the tenure-holder. The *Explanation* added to the proviso in clause 1 is inserted in deference to, and in acceptance of, the views which Babu Akhil Chundra Dutta advocates. But we have not seen our way to accepting his proposals in entirety.

"Before making the motion which stands in my name in the notice paper and without anticipating remarks which the Hon'ble the Advocate-General and the Hon'ble Babu Chaturbhooj Sahay may be about to offer in support of the amendments which stand in their names, I have to add that the Government will accept both the amendments to be moved by the Hon'ble the Advocate-General, and therefore in substance the first amendment standing against the name of my friend, the Hon'ble Babu Chaturbhooj Sahay.

"I now move that the Report and Supplementary Reports be taken into consideration, and that the clauses of the Bill be considered in the forms recommended by the Select Committee."

The Motion was put and agreed to.

Preamble.

The Hon'ble MR. WOODROFFE moved that the preamble be amended by omitting the words after the word "Whereas" in the first line down to the end of the sixth clause thereof, and inserting in lieu thereof the words "doubts and difficulties have arisen respecting the meaning and effect of sections 12, 13, 17 and 18 of the Bengal Tenancy Act, 1885." He said:—

"There is propably no subject of greater difficulty than the relation of the preamble of an Act to the Act itself. There have been various statements from time to time from the highest Judicial authorities in respect of this. It has been said on the one hand that the preamble is the key wherewith to open the Act and show its object and scope, while latter decisions go to show that a

[*Mr. Woodroffe; Babu Chaturbhooj Sahay; Dr. Asutosh Mukhopadhyaya; Mr. Macpherson.*]

preamble should not be resorted to, unless there are doubts and difficulties in the enacting clauses. It seems therefore to me undesirable to afford ground for argument and discussion, seeing that if the preamble is in accordance with the enacting part of the Bill it is useless, and if it is not in precise accordance it may give rise to doubts and difficulties.

"As this amendment has, as I understand, received the assent of the Government, it requires, I think, no further words from me to support it. It is not usual now in modern legislation to insert these long preambles. Formerly, they were much in fashion, but the difficulties that have arisen in later years have led to the preamble being as short and precise as possible."

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"The Bill is a short one and the preamble is unnecessary long. Moreover, the first four of these paragraphs simply reiterate what is contained in sections 12, 13, 17 and 18 of the Bengal Tenancy Act, and paragraph 5 points out the failure on the part of the Registering Officers to take the prescribed landlord's fee before registering transfer of shares in holdings, which failure can be defended by them on the authority of the opinion expressed in 1888 and 1889 by the then Superintendent and Remembrancer of Legal Affairs, as pointed out by the Hon'ble Mr. T. K. Ghosh, the present Inspector-General of Registration, in his letter to the Secretary to the Bengal Council, dated the 18th October last. The law as contained in sections 12 and 17 is not going to be changed, nor is any fresh legal authority going to be vested in the Registering Officers. On these grounds I venture to submit that those paragraphs seem to be unnecessary.

"Furthermore, paragraph 6 also, which does not appear in the original Preamble, seems to be unnecessary, as no useful purpose is served by having it, specially when the law imposing upon the Civil Courts the duty of requiring the purchaser or mortgagee acquiring title under section 13 of the Bengal Tenancy Act to pay into Court the landlord's fee is not going to be altered; and as the non-observance of the law in this connection can be well dealt with in the Executive Department by calling the attention of the officers and Courts concerned to the irregularities complained of, there is hardly any need for this paragraph. The first object of the measure under discussion is to validate the transfers which, on the authority of the High Court ruling in *re* Babur Ali *versus* Krishna Kamini, reported in I. L. R. 26, Cal., 603, would be otherwise invalid.

"The matters contained in these six paragraphs may well appear in the Statement of Objects and Reasons, and may be left out in the preamble expunging the initial word 'and' from paragraph 7; the rest of the preamble as published will fully explain the necessity of the present legislation, and that is all that we need in a preamble. I have only one remark more to offer, and that is that the preamble is no part of the Statute, so this lengthy preamble, without in the least sacrificing the principle of the Bill, may be omitted."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am entirely in favour of the amendment moved by the Hon'ble the Advocate-General, but I would take the liberty to point out that, if this amendment is accepted, it will be necessary to make a slight verbal amendment in the last line of the seventh paragraph of the preamble, viz., that for the word 'said' the words 'landlord's prescribed' be substituted."

The Hon'ble MR. MACPHERSON said:—"I accept the amendment proposed by the Hon'ble the Advocate-General, and also the consequential amendment proposed by the Hon'ble Dr. Asutosh Mukhopadhyaya."

The amendments were then put and agreed to.

The Hon'ble BABU CHATURBHOOJ SAHAY, by leave of the Council, withdrew the motion of which he [illegible] given notice that the six first paragraphs of the preamble and the [illegible] word 'and' in the seventh paragraph of the same be omitted as un[illegible]ry.

[*Babu Chaturbhooj Sahay.*]

Clause 1.

The Hon'ble BABU CHATURBHOOJ SAHAY moved that after the words "or holding" in the fifth line of paragraph 1 of clause 1 of the Bill, the following words be added:—

"where a share in a holding is transferable by custom."

He said:—"It does not seem that it was ever the intention of the Legislature to recognise by statutory law the transfer of a share in a raiyati holding with a rate of rent or rent fixed in perpetuity. If it had had any such intention it would have, while making by section 18, clause (*a*), the provisions with respect to the transfer of a permanent tenure applicable to a transfer of a holding at a rent or rate of rent fixed in perpetuity expressly made a similar provision with respect to transfer of a share in a holding. The argument that the whole includes the part, therefore the provision for transfer of a whole holding includes the provision for transfer of a share, is, I venture to think, fallacious, and is completely met by the circumstance that when the Legislature wanted that transfer of a share in a permanent tenure should be recognized by law, it did not rest content with having enacted only for transfer of a tenure, leaving the law governing the transfer of a share in a tenure to be inferred by the rule of the whole, including the part, but a special section, viz., section 17, was expressly enacted to govern the transfer of a share in a permanent tenure; so with due deference to the learned Judges who held in the case of Mohesh Chunder Ghose *versus* Saroda Prosad Singh, reported in I. L. R., 21 Cal., 433, that sections 17 and 18 of the Bengal Tenancy Act recognise the transfer of a share of a holding, I submit that this ruling is not convincing, and so we can approach unfettered the consideration of the question which is not free from doubts and difficulties. If the question were free from doubt, the seventh paragraph of the original preamble of the original Bill before it was recast in the Select Committee would not have, in spite of the aforesaid ruling, recited that doubts have been expressed as to whether clause (*a*) of section 18 of the Bengal Tenancy Act applies to shares in the holding of the raiyat. Paragraph 3 of the Statement of Objects and Reasons further fortifies my arguments.

"The definitions of the words 'holding,' 'raiyat,' 'tenure' and 'tenure-holder,' all point to the conclusion that there can be no valid transfer of a share in a holding. I may, with advantage, quote here the following passage from a ruling of the High Court, reported in I. L. R., 25 Cal., 917, in *re* Hari Charan Bose *versus* Runjit Singh:—

'Holding' means a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy. Does this mean an entire parcel or entire parcels, or may it also include an undivided fractional share of a parcel or parcels of land? Evidently the definition applies only to an entire parcel or entire parcels, and is not intended to include an undivided share in a parcel or parcels, and the reason seems to be obvious. A *raiyati* holding, which from the very definition of a '*raiyat*' in section 5, sub-section (*2*), means land occupied by a *raiyat* for the purpose of cultivation, can be ordinarily held only in its entirety and the cultivation of an undivided fractional share of a parcel of land will be ordinarily meaningless. A 'tenure,' on the other hand, which is the interest of a tenure-holder, who, as defined in section 5, sub-section (*1*), is a person who has acquired a right to hold land for the purpose of collecting rents or bringing it under cultivation, by establishing tenants on it, may relate only to an undivided fractional share in land without leading to any practical difficulty. And it is for this reason that whilst 'tenure' is defined as the interest of a tenure-holder or an under-tenure holder, 'holding' is defined, not as the interest of a *raiyat*, but as a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy.

"Again, the recognition of a transfer of a share in a holding would be a fruitful source of litigation, and would tend to embarrass both the landlord and the tenant, which the Legislature ought to try its best to avoid.

"But thinking that fractional shares may be transferable by custom in some places, I respectfully beg to propose that after the words 'in holding' the words 'where share in holding is transferable by custom' be added. The

[*Babu Chaturbhooj Sahay; Mr. Macpherson; Dr. Asutosh Mukhopadhyaya; Mr. Woodroffe.*]

Secretaries to the British Indian Association and Bengal Landholders' Association object to the transfer of a share in raiyati holding being recognized by law."

The Hon'ble MR. MACPHERSON said:—"I am not prepared to advise the Council to accept this amendment. The amendment suggests an interpretation of section 18 of the Bengal Tenancy Act with regard to the transferability of shares in holdings at fixed rates or fixed rents which is not in accordance with the interpretation put upon the section by the High Court in the ruling in the 21st volume of the Law Reports which the Hon'ble Member has read to us. I was not aware of the subsequent ruling contained in the 25th volume which the Hon'ble Member has also cited, and I am not prepared to say what may be the effect of the latter ruling. The Bill as first introduced into this Council contained a clause 3 which proposed to amend section 18 of the Bengal Tenancy Act. The Bill as introduced no longer contains such a clause. As explained in the Select Committee's Report, we considered that it was unnecessary to retain that clause in the view that it is sufficiently clear that section 18 of the Act is covered by section 17 which relates to transfers of shares. The Hon'ble Member's amendment is antagonistic to the interpretation given by the High Court in the earlier ruling which he cited, and it is also antagonistic to the view taken by the Select Committee.

"The amendment proposed by the Hon'ble Member cannot be described as going beyond the scope of the Bill, because the Bill as introduced proposed a declaration of the law on this very point of the transferability of shares of holdings, but our declaration was to have been in a sense very different to that proposed by the Hon'ble Member. The provisions of the existing law say nothing at all about custom in this connection. Custom decides the question of transferability of occupancy holdings, but that is a matter quite different from the question of the transferability of holdings at fixed rates and fixed rents, which is now before the Council. For these reasons I shall vote against the amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret I cannot support the amendment moved by my hon'ble friend, Babu Chaturbhooj Sahay. In the first place it seems to me that the amendment is absolutely unnecessary. The section, so far as it relates to the matter now before us, says that 'no transfer of any share in a holding shall be deemed to be invalid merely on the ground that the landlord's fee prescribed by the said sections 12 or 13 has not been paid.' That is to say, if it is invalid on any other ground, it will be so in fact. The only question about which we are now legislating is the payment or non-payment of the landlord's fee. My learned and hon'ble friend apprehends that, if the Bill is passed into law as it now stands, it may be argued that the transfer of a share in a holding is permissible. I submit that no such inference can be properly drawn, because all that we say is negatively that such transfer is not invalid merely by the omission of the payment of the landlord's fee.

"In the second place, it seems to me that it would be dangerous to accept the amendment on other grounds. My learned and hon'ble friend wishes to put in these words 'where a share in a holding is transferable by custom.' But suppose a share in a holding is transferable by contract? Suppose that in a number of leases, in the case of tenants of holdings at fixed rates and fixed rents, the contract provides that shares in the holding may be transferred, are we to say that such a transfer is not to be allowed? Why assume that a share in a holding is transferable only by custom and not otherwise?

"I submit therefore that the amendment is absolutely unnecessary, and that if we accept it we may be led into difficulties which we do not foresee at the present moment."

The Hon'ble MR. WOODROFFE said:—"I do not think, for the reasons which have been mentioned by the Hon'ble Dr. Asutosh Mukhopadhyaya, that the amendment is necessary; nor do I understand from what has fallen from the

[*Mr. Woodroffe; Mr. Gupta; Maulvi Seraj-ul-Islam, Khan Bahadur; Babu Chaturbhooj Sahay.*]

Hon'ble Mover that the decision that was given in the case of Mohesh Chunder Ghose *versus* Saroda Prosad Singh has been reversed or dissented from in the latter ruling. No doubt, as pointed out by the Hon'ble Mr. Macpherson, it cannot be said that the matter is absolutely alien to the Bill as it at present stands; but seeing that the first paragraph simply deals with the difficulty or supposed difficulty arising from non-payment of the landlord's prescribed fees, that the Act expressly provides for the maintenance of section 88, and that it is not proposed to deal with any subsequent portion of the Act relating to the transfer of shares in holdings, I think that it is unnecessary and alien to the real scope and bearing of this Bill to introduce this amendment."

The Hon'ble MR. GUPTA said:—"I entirely agree with the observations which have fallen from the Hon'ble the Advocate-General, and also from the Hon'ble Dr. Asutosh Mukhopadhyaya. I quite agree with them in thinking that this amendment is unnecessary, and may lead to complications and unnecessary difficulties in construing other sections of the Act. I think the Hon'ble Mover of this amendment has overlooked the force of the word 'merely' which was put by the Select Committee (at least I am not sure if it was on the original draft), and also the force of section 88 of the Tenancy Act which sufficiently protects the landlord against division of the tenure or holding.

"Then there is this question, that in any case the Registrar before whom such a deed is presented for registration will be bound to register, and he will not be bound to enter into the question as to whether it is transferable by custom or not. We merely do this: where the Registrar who has registered a deed has by oversight omitted to take the registration fees, this Bill simply enacts that such omission as such will not invalidate the transfer. So since a Registrar is bound to register a deed, we make provision only as to the effect of the omission to levy the prescribed fee, leaving the general provisions of the Act and the general law of the country as it stands. Whether a share is transferable or not is unaltered by this Bill. With regard to that ruling on section 18, if that ruling is not correct, it may afterwards be overruled by a Full Bench, or it may be differed from by another Bench of the High Court, but I do not think we should be justified in taking upon ourselves the responsibility of going counter to that ruling, nor does this Bill in any way affect the construction of section 18 as regards the non-payment of landlord's fee."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—"I also think that this amendment is not only unnecessary, but that it will raise some difficulty. What the Hon'ble Mover is anxious to secure is already met by section 88 of the Tenancy Act, which says that the landlord is not bound to recognise the transfer of any holding or tenure or any sub-division of any holding or tenure. Secondly, it appears to me, as several Hon'ble Members have remarked, that the scope of the Bill is limited. This Bill simply says that the non-payment of fee is not sufficient to invalidate a transfer, and if a transfer is otherwise invalid, this Bill will not make it valid. The Hon'ble Mover is labouring under one misapprehenship. This Bill does not deal with occupancy holdings; it deals with holdings which are superior to occupancy holdings. It is a question, and a moot question, whether such holdings which are permanent holdings and on which rent is fixed in perpetuity are transferable by custom. Now if the amendment is accepted, instead of getting rid of the difficulty, we will complicate matters more. If we accept the amendment, it will indicate that the holding is transferable irrespective of custom. I submit that the amendment is unnecessary, and that it will also create further difficulty."

The Hon'ble BABU CHATURBHOOJ SAHAY in reply said:—"I feel the weight of authority pressing against me, but after considering the importance of the subject, I think that the views I have given expression to in my first address should be made known to the Council both in the interests of landlord and tenant.

"That there might be cases where a share in a holding may be transferred by contract as suggested by my learned and hon'ble friend Dr. Asutosh Mukhopadhyaya, I quite admit. Therefore, the proper thing to do would be not to

oppose my amendment on that ground, but to insert the words 'by custom or contract.' Moreover, a case of contract would be covered by section 88 of the Bengal Tenancy Act.

"Then section 88 has been quoted by several hon'ble speakers who have opposed the amendment, and who say that it gives a sufficient remedy. I am quite aware that section 88 provides that, unless the consent in writing of the landlord is obtained, there can be no splitting up of a tenure or holding or *jama*. But there are cases of transfers, legal or illegal, where notices are sent by the Collector to the landlord who is bound under the existing law to make such transferee a party along with the original registered tenants. This will add, according to my humble view, to the difficulties of the landlord in obtaining a decree for rent. The transferee in question may be a wicked person and may throw some sort of obstacle in the way of the landlord in his gitting rent and so forth; and therefore I submit that the proposal I have made in the interests of both landlord and tenant should not be negatived on the ground mentioned by the Hon'ble Members who have opposed the motion."

The Motion was then put and lost.

The Hon'ble BABU CHATURBHOOJ SAHAY also moved that the following proviso be added after the word "Act" in the second paragraph:—

"Provided also that the provisions of this section shall not prejudicially affect the rights of third persons with respect to any tenure or holding acquired *bonâ fide* before the validation of the transfer of such tenure or holding by the operation of this Act."

He said:—"The necessity for this amendment is that there may be cases where tenure-holders or raiyats holding at rents or rates of rents fixed in perpetuity, relying upon the decision of the High Court in the case of Babur Ali *versus* Krishna Kamini Debi, may have subsequently sold away or mortgaged their tenures or holdings to third persons who may have purchased the same in good faith for valuable consideration in the honest belief that the previous transfer was judicially declared invalid or would be invalid on the strength of the said decision of the High Court. In order to protect the interests of this class of innocent purchasers for value, in which expression I include mortgagees as well, I beg to move this amendment which, I trust, will meet with the approbation of the Hon'ble Members of the Council."

The Hon'ble MR. GUPTA said:—"I am obliged to oppose this amendment chiefly on the ground that it would be speculative legislation and a leap in the dark. We should not know what rights we might not upset if we accept it. I fully appreciate the object with which it is moved, namely, that *bonâ fide* purchasers for value should not be put to loss. To put it briefly, my position is this. The rights of these third parties whom it is intended to protect, either flow from a decree, or they do not flow from a decree. If they do not flow from a decree, they are protected by the first clause. If they flow from a decree, they are protected by the first proviso. The only case which my hon'ble friend seems to contemplate is, that where believing that such transfer is invalid, certain parties have made purchases, and afterwards this transfer is validated. I should very much have liked him to give us a concrete case exactly in point so that we might have met it or considered it in detail. Let us suppose such a case as he has mentioned. Suppose *A* has already transferred one-fourth of his share to *B* without paying the landlord's prescribed fee. Then after the High Court's decree *A* thinks that he is safe and that his transfer to *B* is invalid and therefore sells the same share to *C*, this time after paying the landlord's fee. Then the effect of the amendment proposed by the Hon'ble Babu Chaturbhooj Sahay is that *C* who is a *bonâ fide* purchaser for value would be protected. But on the other hand the rights of *B* will be lost, which but for this amendment would be established. So that by this attempt to protect the rights of third parties whom we know nothing about, we may be upsetting the rights of other parties, and therefore I say we should be taking a leap in the dark and jeopardising the rights of second and may be fourth parties

in trying to protect these third parties. There are instances in our law where a *bonâ fide* purchaser is not protected. For instance, *A* sells his property without registration to *B*, accepts value and puts *B* in possession. He then sells the same property to *C* with registration, but cannot give him possession because *B* continues in possession. It has been held by a Full Bench that *C*'s right will prevail over *B*'s. This is an instance where a *bonâ fide* purchaser for value is not protected by law. In a system of law some hard cases must occasionally arise.

"In the present case I feel that the grounds urged in support of the amendment are very uncertain, and in trying to legislate to protect the rights of persons about whom we do not know anything, we may be unwittingly jeopardising the rights of others."

The Hon'ble MR. WOODROFFE said:—"One or two observations occur to me. Either a transfer has had the sanction of Court, or it has not. If a transfer is deemed to be invalid merely by reason of the fee not being paid, he is protected by the first clause. If on the other hand there has been a decree, then the exception to the proviso, I venture to think, sufficiently provides the matter. Under any circumstances it appears to me, as it appears to the Hon'ble the Legal Remembrancer, that by accepting this amendment we should be making a leap, and a very long leap, in the dark."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The question raised by the Hon'ble Mover of the amendment is not wholly free from difficulty. After the best consideration which I have been able to give the matter, I think it ought not to be accepted, and for this reason. If accepted, it will lead to a great deal of mischievous litigation. Take the concrete case put by the Hon'ble Mr. Gupta. *A* is a tenant who sells his tenure to *B*, but the landlord's fee has not been paid. Then he comes to know of this decision of the High Court. He says: 'Although I have taken *B*'s money, the transfer is invalid, and I may endeavour to cheat *B*. I will sell the property again to *C*.' *C* seeing that the property has already been sold to *B*, but finding that there is an informality which may invalidate the transfer, says: 'I will pay my money to *A* and take a transfer.' If he chooses to inquire in the Registry Office, he will see that there has been a previous transfer in favour of *B*. By virtue of this Act the transfer in favour of *B* is validated. My hon'ble and learned friend says: '*C* is a *bonâ fide* purchaser for value, and ought to be protected.' I confess I have very little sympathy with *C*. At any rate it would be a choice between two difficulties—either *B* or *C* must loss. If *C*, knowing that there has been a prior transfer to *B*, chooses to throw away his money, he has only to thank himself.

"If you accept the amendment, what will be the effect? In every case there will be a fight between *B* and *C*. *B* will say *C* is not a *bonâ fide* purchaser. *C* will say I am a *bonâ fide* purchaser, and probably it will be decided that *C* is or is not a *bonâ fide* purchaser. Then the other man will bring an action against the transferor to recover his money. I think it is not necessary to have this amendment."

The Hon'ble MR. MACPHERSON said:—"The Hon'ble Member's amendment represents that portion of the recommendations of Babu Akhil Chandra Dutta which I mentioned that the Select Committee were not able to accept. I said that we were able to accept a part of those recommendations, and the remainder is what the Hon'ble Member's amendment would insert in the Bill. I had come to Council with a somewhat open mind on this matter, and had hoped with the Hon'ble the Legal Remembrancer that the Hon'ble Mover would have given us a concrete case showing how his proposed amendment would work in the case of persons affected who have given valuable consideration for a transfer. In the absence of explanation of a concrete case, and not being able to foresee in what way parties may be affected if the amendment should be accepted,—because there may be completely different sets of transactions to be considered—I shall feel it incumbent on me to vote against the amendment."

[*Babu Chaturbhooj Sahay.*]

The Hon'ble BABU CHATURBHOOJ SAHAY in reply said:—"I anticipated little difficulty in being able to carry this amendment, but it appears that I was wrong. I would like to make my views clear in order to meet some of the arguments urged by the gentlemen who opposed my amendment. The first remark I shall deal with is, that I have failed to give a concrete case and therefore the amendment cannot be well attended to. I submit that the business of the Legislature is to take a comprehensive view and to provide not only for present cases but also for cases that may crop up in the future. We cannot undertake to legislate for each case as it arises. We must see ahead whether a case like this is possible or not.

"The point I wish to make clear to Hon'ble Members of Council is this: when in the year 1899 the decision in the case of Babur Ali *versus* Krishna Kamini Debi was published, it was well known to the general public that a transfer without payment of the landlord's fee was invalid by reason of that ruling. We have undertaken to cure that defect in the year 1903. So between 1899 and the present date the general impression of the public has been that a transfer without payment of the landlord's fee is invalid.

"Take this concrete case which, though it may not have happened, is quite an intelligible case. Let us suppose that *A* transfers his holding to *B* in the year 1898. In the year 1899 the case of Babur Ali appeared. Just after that *A* came to know that the transfer made by him to *B* is invalid by reason of the fee not having been paid. He then sold to *C* the same property by receiving consideration for the same, the prescribed landlord's fee being paid. One of the remarks made by the Hon'ble Dr. Asutosh Mukhopadhyaya was, that this was in order to cheat *B*. I fail to understand the force of this remark, for the simple reason that as the transfer to *B* was invalid, he, *i.e.*, *A* was *ex hypothesi* perfectly at liberty to sell his property to any one he liked. The element of cheating is absolutely absent, so far as my humble judgment leads me to see. Then *C* acquires the property, and in this case let us suppose he has acquired possession as well. Now in 1903 we are going to disturb his possession by passing this Act and hand the property to *B*. This case does not come under any decree or provision that has been pointed out by the Hon'ble the Legal Remembrancer. Of course if it had been the case of a decree, it would have been covered by the *Explanation* which has been attached to the first proviso. This is quite true, but the case I have put is quite independent of any case covered by the first proviso or by the *Explanation*. The first proviso says: 'Provided that, subject to the *Explanation* following, nothing in this section shall be held to affect the decision of a Court of competent jurisdiction which has become final before the commencement of this Act.' That is to say, that if a transfer has been judicially declared invalid, this Act will not be able to help that party whose transfer has been so judicially declared. But in my case that has not been invalid at all. When the first transfer fell through, the second transfer took place without any object of injuring any party, because at that time no intermediate rights were existing.

"It is said that such transactions should not be supported. As for the right of *B*, the first transferee, to recover his purchase-money, both in cases of execution sales and private conveyances, I fail to understand that notwithstanding the invalidity of the transfer from 1899 to January, 1903, how he has been keeping quiet without stirring in the matter and without trying to recover his purchase-money. We are discussing the rights of third persons who must be innocent parties and *bonâ fide* purchasers for value. I submit, Sir, that a case like this deserves the most careful consideration of the Council. Of course if the document itself be invalid on any other ground, such as want of registration, &c., this clause that I am proposing will not help at all. Of course I am taking for granted that the transfer is otherwise valid and has become invalidated only because the first transfer has now been validated by the operation of this Act."

The Motion was then put and lost.

The Hon'ble BABU CHATURBHOOJ SAHAY remarked that there was no need of pressing the following amendment standing in his name, as his point,

was covered by the *Explanation* subsequently attached to clause 1 of the Bill:—

"The benefit of the first proviso of this paragraph shall not be extended to the decision of a competent Court dismissing a suit for rent on the ground that no relationship of landlord and tenant exists by the circumstance of the landlord's fee not having been paid."

Clause 2.

The Hon'ble MR. WOODROFFE moved that clause 2 be amended by inserting the words "or may thereafter be" between the words "been" and "left." He said:—

"It was explained to the Council by the Hon'ble Member in charge of the Bill that this Act is intended not merely to validate matters which have passed, but also to safeguard the possibility of mistakes in the future. Now since the words 'has been' might be taken to refer simply to the past, I move that these words 'or may hereafter be' be inserted. Assuming this amendment accepted, I ask leave to make some other verbal amendments which are consequential thereon. They are:—That in the second paragraph of the same section, to strike out the words 'by which' and substitute the word 'effecting,' and delete the last two word 'was effected'; and in the fourth paragraph, to insert the words 'or may hitherto be' between the words 'been' and 'made,' in order to make this section applicable quite clearly to cases either in the past, or in the future. Although it seems to me that subsequent mistakes would in all probability be held to come within the operation of the Act, I ask permission to add these words in order to avoid all possibility of discussion."

The Hon'ble MR. MACPHERSON said:—I accept the several amendments proposed by the Hon'ble the Advocate-General."

The Motions were put and agreed to.

The Hon'ble MR. MACPHERSON said:—"I ask permission, under rule 22 of the Rules of Business, to bring forward an amendment which is not in the notice paper. I propose that in the penultimate line of clause 2, after the words 'the Collector shall realise such fee' the words 'if still unpaid' be inserted. The object of inserting those words is to make it clear that the Collector is not bound to realise the fee without giving an opportunity to the tenant to show that it has been paid."

The Motion was put and agreed to.

The Hon'ble MR. WOODROFFE said:—"If I am in order, I should like with the President's permission to move the following amendment that after the words and figures 'Bengal Tenancy Act, 1885,' in the Preamble of the Bill as settled in Council, the words 'as regards the payment of the prescribed landlord's fee, and the effect of the non-payment of such fee' be added.

"The reason why I trouble the Council with this amendment at this stage is to make it clear, with reference to the arguments that have preceded this, that the whole scope and intention of this Act is limited to the question of the payment or non-payment of the landlord's fee. If these words that I propose to add to the first clause of the amended Preamble meet with the approbation of the Council, they will, I venture to think, remove to a considerable extent the difficulty which the Hon'ble Babu Chaturbhooj Sahay has suggested during the course of his arguments."

The Hon'ble MR. MACPHERSON said:—"I accept the amendment. The object of the Hon'ble the Advocate-General's amendment is merely to define more clearly the scope and purposes of this Act."

[*Babu Chaturbhooj Sahay; Mr. Macpherson; the President; Mr. Collin.*]

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"I have pleasure in supporting the amendment."

The Motion was then put and agreed to.

The Hon'ble MR MACPHERSON moved that the Bill, as settled in Council, be passed.

The Hon'ble the PRESIDENT:—"Under rule 44 of the Rules of Business, if any amendment be moved of which due notice has not been given, it is open to any Hon'ble Member to object to the passing of the Bill at the same meeting. Does any Hon'ble Member desire to move any amendment or to raise any objection?"

No objection having been raised, the Motion that the Bill be passed was then put and agreed to.

THE BENGAL EXCISE (AMENDMENT) BILL, 1903

The Hon'ble Mr. COLLIN moved for leave to introduce a Bill to amend the Bengal Excise Act, 1878. He said:—

"I will explain briefly the history and object of the measure. It is called a Bill to amend the Excise Act, but it is more properly an Explanatory Bill, as it merely recites provisions which are already in force under the existing law.

"Section 28 of the Excise Act empowers the Board of Revenue in general terms to regulate the form and conditions of all licenses in need for the sale of exciseable articles. This section was taken from the old Excise Act of 18 6, which was passed when there was perhaps greater confidence in the Executive than at present. The tendency of modern legislation, however, has been to curtail the power of the Executive by defining in the Acts the subjects on which rules may be made, and a general empowering clause, such as that of section 28 of the Bengal Excise Act, is now seldom found. It is doubtful whether the old system or the new is the better: but, however that may be, it appears that under the general authority given by section 28, the Board has from time to time when issuing licenses, imposed with objection such conditions as appeared necessary to secure the orderly management of licensed houses, and to carry out the policy of Government for the restriction of the consumption of liquors. They have imposed conditions that liquor shall be obtained from certain sources and be sold at certain places Licensed vendors are required to set up signboards over their shops and to keep accounts of their sales. They are forbidden to sell except at certain hours, and they are not allowed to sell at all to certain classes, as, for instance, European soldiers. They cannot transfer their licenses or sublet their shops.

"These conditions have, as already explained, been imposed under the general provisions of section 28 of the Excise Act, and the authority to do so would probably never have been questioned had it not been found expedient two years ago to interfere with the practice of employing females for the sale of liquor which had then become unduly prevalent in Calcutta. It is not necessary to enter into the details of the controversy which arose on this subject. It is sufficient to say that it was found that there were over 30 women employed in the bars of Calcutta licensed houses, and that the object of their employment was to attract customers and to stimulate the consumption of liquor. The policy of Government is, however, to restrict the consumption of liquor to the lowest point compatible with the supply of legitimate demands, and it was in pursuance of this policy necessary to take action to stop these irregular methods of stimulating consumption and encouraging people to drink, and to do so at once before the evil had become established. These were the reasons, from an Excise point of view, which led to the exclusion of women from the bars of Calcutta.

[*Mr. Collin; the President.*]

"There were other objections on administrative grounds to the employment of women in such duties which will occur to every Member of this Council, and it is not necessary now to state them. When the orders were passed, it was suggested that they were not covered by the provisions of the Excise Act. Government, however, did not derive its authority solely from that Act. The Calcutta Police Act of 1866 gives special powers in respect of the licensed houses of the town, and under section 37 of that Act it is open to the Government to fix conditions when issuing licenses for the regulation of such houses and for the prevention of drunkenness and disorder in places of public entertainment. This section, therefore, was a sufficient authority for Government to forbid the employment of women, whose services admittedly increased the consumption of liquor, and thus tended to lead to drunkenness and disorder.

"It is, however, inconvenient to take action in such a matter under the Police Act, and it has, therefore, been thought advisable to add a provision to the Excise Act so as to remove all uncertainties and to show clearly what conditions may be attached to Excise licenses. The clause which it is proposed to add to the Act recites all the subjects on which conditions have been enforced, and which have hitherto been accepted without demur by licensed vendors. The exclusion of women met at first with some opposition from licensed vendors, who complained that their profits would be reduced, but effect has been given to the orders during the last year.

"In section 3 of the Bill a small addition is made to section 67 of the Act, in order to prevent licensed shops from being used as a meeting place for persons of notoriously bad character. This provisions has for years been inserted as one of the conditions of a license, and no objection has been made to it. It is obviously a proper condition, and it is thought desirable to embody it definitely in the Act. I ask, Sir, for permission to introduce the Bill which is in the hands of the Hon'ble Members."

The Motion was put and agreed to.

The Hon'ble MR. COLLIN also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended, the Hon'ble MR. COLLIN introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. COLLIN also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Buckland, the Hon'ble Mr. Gupta, the Hon'ble Mr. Woodroffe, the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Mr. Elworthy, the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, and the Mover, with instructions to report on the 16th February next.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 24th February, 1903.

CALCUTTA;
The 24th February, 1903.

J. G. MORISON,
Offg. Secretary to the Bengal Council, and Assistant Secretary to the Govt. of Bengal, Legislative Department.

B. S. Press—12998—50—25-5-1906—J. T. C.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Tuesday, the 24th February, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MR. T. K. GHOSE.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

NEW MEMBERS.

The Hon'ble MR. L. HARE, C.I.E., and the Hon'ble MR. T. K. GHOSE took their seats in Council.

QUESTIONS AND ANSWERS.

THE CHAUKIDARI ACT, 1870.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked:—

Is the Government aware that the operation of the Chaukidari Act, 1870 (Bengal Act VI of 1870), is attended with great hardship and oppression upon the poor tax-payers in all the districts of Bengal, and specially of Eastern Bengal? Will the Government be pleased to call upon the District Officers to inquire into the matter and report?

The Hon'ble MR. HARE replied:—

"The Hon'ble Member has not stated in what direction and in what respects the operation of the Chaukidari Act is hard and oppressive. On the other hand, from the evidence before Government, it would appear that the working of the Act is generally approved. As no specific allegations have been made, and as the whole question of chaukidari administration is being considered by the Police Commission, the Lieutenant-Governor sees no necessity for calling for a special report on the subject from District Officers."

LANDLORDS' FEES.

The Hon'ble MR. COLLIN, in continuation of the answer given to Questions Nos. II and III of the Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, at the Council Meeting of the 7th February, 1903, said:—

"The Board of Revenue have now furnished a statement showing, as far as information is available, the amount of landlords' fees realized under the Bengal Tenancy Act up to the end of the last financial year, and the amount now held in deposit in the several District Treasuries. A copy of this statement is laid upon the table for the information of Hon'ble Members. Information in respect of the districts of the Chittagong Division has not yet been received. When received, it will be laid upon the Council table. Such fees are not realized in the districts of the Orissa and Chota Nagpur Divisions."

Statement showing the amount of Landlords' fees realised under the Bengal Tenancy Act up to the end of the financial year, 1901-1902.

DIVISION.	District.	LANDLORDS' FEES.		REMARKS.
		Realized.	Held in deposit.	
		Rs.	Rs.	
BURDWAN ...	Burdwan	34,406	23,372	
	Birbhum	6,293	2,232	
	Bankura	32,991	10,477	
	Midnapore	35,397	27,845	From 1891 to 1901-1902.
	Hooghly	87,189	61,746	
PRESIDENCY ...	24-Parganas ...	92,417	73,302	Include amounts under sections 14 and 15 also.
	Nadia	19,465	16,948	
	Murshidabad ...	12,966	8,206	
	Jessore	25,998	23,192	
	Khulna	32,802	28,422	Include amounts realized under sections 14, 15 and 18 (*a*).

Division.	District.	Landlords' fees.		Remarks.
		Realised.	Held in deposit.	
		Rs.	Rs.	
Rajshahi ...	Rajshahi	2,608	2,171	
	Dinajpur	5,177	3,003	
	Jalpaiguri	127	114	
	Rangpur	7,745	3,050	
	Bogra	2,904	2,089	
	Pabna	9,505	9,210	
Dacca ...	Dacca	16,544	12,383	Approximate figures include amounts under sections 14 and 15 also.
	Mymensingh ...	16,161	15,654	
	Faridpur	22,547	18,145	
	Backergunge ...	99.776	93,821	
Patna ...	Patna	4,884	3,076	From 1887-88 to 1901-1902.
	Gaya	10,148	7,404	
	Shahabad	21,894	11,756	From 1899-1900 to 1901-1902.
	Saran	4,953	4,506	
	Champaran	6,649	4,107	
	Muzaffarpur ..	10,856	5,530	
	Darbhanga	11,242	6,515	From 1886-87 to 1901-1902.
Bhagalpur ...	Monghyr	13,169	10,718	
	Bhagalpur	11,868	8,972	
	Purnea	2,989	1,939	From 1891-92 to 1901-1902.
	Malda	3,322	2,651	

FEES FOR TRANSFER AND SERVICE OF NOTICE UPON LANDLORDS.

The Hon'ble Mr. Collin, in continuation of the answer given to Question No. IV of the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, at the Council Meeting of the 7th February, 1903, said:—

"From a report received from the Board of Revenue, it appears that notices under sections 12, 13 and 15 of the Bengal Tenancy Act, for the service of which fees are levied under those sections, are generally served either on the landlords personally, or at their residences or cutcherries."

THE BENGAL EXCISE (AMENDMENT) BILL, 1903.

The Hon'ble Mr. Collin, in presenting the Report of the Select Committee on the Bill to amend the Bengal Excise Act, 1878, said:—

"It is not necessary to explain at any length the changes which have been made in the Bill. The amendment of the Act proposed in clause 7 of the Bill requires, however, a word of explanation. As I stated when introducing the Bill, orders were passed in 1901 which were intended to prohibit the employment of women in licensed houses. These orders prohibited their employment in the sale of liquor; but the Select Committee have ascertained from various sources, and especially from the Commissioner of Police, Calcutta, who was good enough to attend one of their meetings, that the intention of the orders had been evaded by the employment of women in licensed houses in other ways, which did not come within the strict letter of the prohibition. These women are employed in order to attract customers and to encourage the consumption of liquor. It is only in a few houses that they are found, and in these houses the consumption of liquor is much greater than where no women are allowed. The Select Committee have, therefore, after very careful consideration, found it necessary to add a specific section to the Act in order to effect the object of the present legislation.

"They have at the same time recognized that there are posts in hotels and other houses of a similar character where women can be employed without objection, and they have left such cases to be dealt with by the Board of Revenue. The other amendments are sufficiently explained in the Report of the Select Committee. We have had the advantage of the advice of the Hon'ble the Advocate-General in framing this Bill, and the Select Committee is greatly indebted to him for the keen interest which he has taken in the matter. It is hoped that with the further amendments which the hon'ble gentleman proposes to introduce, and which I am prepared to accept, the Bill will be complete and effective for the purpose for which it has been introduced."

The Hon'ble MR. COLLIN also moved that the Report be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee.

The Motion was put and agreed to.

Clause 2.

The Hon'ble MR. COLLIN also moved that in clause 2 of the Bill, as amended by the Select Committee, for the words "said Act" the words and figures "Bengal Excise Act, 1878," be substituted.

He said:—"This is merely a verbal amendment."

The Motion was put and agreed to.

Clause 7.

The Hon'ble MR. WOODROFFE moved that in line 3 of clause 7, before the word "employ" the words "during the hours in which his licensed premises may be kept open" be inserted. He said:—

"The Report of the Select Committee shows that it was of opinion that the employment of women was generally undesirable in licensed drinking shops as tending to lead to excess of drinking and other evils. The Select Committee, as has already been pointed out to Council, had the advantage of hearing the Commissioner of Police, and from his statement it was apparent that much evil results from the employment of women, in one capacity or another, in the public rooms.

"It is not of course the intention of the Legislature altogether to prohibit the employment of women in the liquor trade, which is a lawful and legitimate trade, otherwise it would not be sanctioned by the Government of this or of any other civilised country, but to prevent their being employed in such a manner as to endanger the best interests of the public. That intention will be best given effect to by the insertion of the words 'during the hours in which his licensed premises may be kept open' before the word 'employ.' The owners of licensed premises will thus be enabled to employ women at their premises at any time, save the hours in which his licensed premises may be kept open, and at the same time it will be made apparent that there is no intention on the part of the Legislature to prevent the employment of women in any honest work in public houses in which they can take part without injury to themselves or others, as for instance the cleaning up of the premises, arranging bottles and glasses, seeing to the linen and crockery, washing and scrubbing the floors, etc., during the time when the premises are not open."

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

The Hon'ble MR. WOODROFFE also moved that in line 4 of the same clause for the word "his" the word "such" be substituted. He said:—

"This amendment is one of a purely formal character, and is incidental to the amendment which has just been moved and carried."

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

The Hon'ble MR. WOODROFFE also moved that in line 3 of the same clause after the word "employ" the words "or permit to be employed" be inserted. He said:—

"Lest, Sir, there may be a difficulty arising from the word 'employ,' and that hereafter questions may be raised as to whether or not the licensed vendor himself employed the persons or class of persons, whose employment is struck at, in the manner and to the extent of this new section, I move that the words 'or permit to be employed' be inserted."

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

The Hon'ble MR. COLLIN moved that in sub-clause (2) of clause 7 the word "modified" be substituted for the word "altered."

He said:—"This, Sir, is a purely verbal amendment."

The Motion was put and agreed to.

Clause 8.

The Hon'ble MR. WOODROFFE moved that in line 6 of clause 8 for the word "therein" the words "in any license granted under this Act" be substituted. He said:—

"The amendment which stands in my name in this matter has been introduced for the purpose of avoiding, if possible, all questions that might arise in regard to the language of clause 8 of the Bill. As it stands at present, section 28 of the Act provides that—

'The Board may regulate the form and conditions of all licenses granted under this Act.'

"It appears to me that, regard being had to the amendment of that section now proposed to be made, it is desirable to make it clear that there is power to make special conditions applicable to certain licenses. The word 'therein' may be read to mean all licenses; but it is apparent that there may be licenses in which it might be unnecessary to insert all the conditions now legalised.

"There are many houses in which, for instance, there may be no necessity for placing signboards over the shop, and it may be desirable to secure earlier closing in some houses than in others; and therefore, in order to make it clear that certain conditions may be inserted in one license and not in others, the safer way is as it seems to me to insert in place of the word 'therein' the words 'in any license granted under this Act.'"

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

The Hon'ble MR. COLLIN moved that in line 9 of clause 8, after the word "licensee" the words "and may modify such conditions from time to time" be inserted. He said:—

"In this clause we have given power to the Board of Revenue to make conditions; but we have omitted to give them power to modify such conditions from time to time, and this amendment is meant to supplement the section as drafted by the Select Committee."

The Motion was put and agreed to.

Clause 9.

The Hon'ble MR. WOODROFFE moved that in clause 9, between the words "permits" and "persons" the words "two or more" be inserted. He said:—

"The section at present runs as follows:—'or permits persons who have been convicted of any non-bailable offence or who are reputed prostitutes to assemble in his shop, whether for the purposes of crime or prostitution or not.'

"Although the use of the word 'assemble' and the word 'persons' in that section make it reasonably clear that it is not intended to apply to one person only, or to prevent the supply of liquor to any person who has been convicted of a non-bailable offence or to a reputed prostitute, but that the object sought to be attained is the prevention of the assembling of such persons; yet it seems to me that it is better to put in the words 'two or more' between the words 'permit' and 'persons' thus making more clear our object which is the prevention of the assembling of these undesirable classes in public licensed premises."

The Hon'ble MR. COLLIN said:—"I accept the Hon'ble Member's amendment."

The Motion was put and agreed to.

The Hon'ble MR. COLLIN then moved that the Bill, as settled in Council, be passed.

The Hon'ble MR. WOODROFFE said:—"In rising to support this Motion I desire to say that when this Bill was before us in Select Committee, it appeared to me to be highly desirable to take power to prevent the sale of liquor to persons who, by the habitually intemperate use of such liquor or other articles, had brought themselves to that condition of degradation which in England is dealt with in the Habitual Drunkards Bill, as also to children under the age of fourteen. These are two great evils; and although the Select Committee was of opinion that the prohibition embodied in the two sections thus proposed by me was highly desirable, yet having regard to the fact that if they were inserted in the Bill it would be necessary to apply to the Government of India, I withdrew these two sections in the hope, expressed in Select Committee, that when a general licensing Bill is brought in, effect might be given to these suggestions. It appears to me that the question of prohibiting the employment of undesirable persons in the sale of liquor is but part of a very much larger evil, and that that larger evil can only be properly dealt with by legislation which would prevent the sale of liquor and intoxicating drugs to persons who may be described as habitual drunkards and to children under the age of fourteen years. With these observations I support the motion of the Hon'ble Member in charge of this Bill that the Bill be passed."

The Hon'ble the PRESIDENT said:—"I feel certain that I give expression to the feeling of the Council when I say that we sympathise with the sentiments expressed by the Hon'ble the Advocate-General; and I assure him that when the time comes for the introduction of the larger Excise Bill, the views which he has to-day expressed will receive the fullest consideration at the hands of the Council."

The Motion that the Bill be passed was then put and agreed to.

[*Mr. Buckland.*]

THE BENGAL MOTOR-CAR AND CYCLE BILL, 1903.

The Hon'ble Mr. BUCKLAND, in moving for leave to introduce a Bill for regulating the use of motor-cars and cycles in streets and public places in Bengal, said:—

"Before proceeding further, I desire to explain that the mere fact that this Bill is in my hands as a Member of the Board of Revenue does not make it a revenue measure. Far from it. It is meant to be a police measure. It was brought to the notice of Government a few months ago by the Commissioner of Police that he had no power to regulate the use of motor-cars in the streets of Calcutta, and that in expectation that motor-cars would be introduced into this country in some numbers before very long, it was desirable that he should be invested with powers to regulate their use. The Commissioner of Police accordingly submitted some draft rules for the consideration of Government. These draft rules, I may say at once, were taken *verbatim* from the rules which are in force in England, and passed by the Government under the Act entitled 'The Act to provide for the Use of Locomotives on Highways' —a Statute of 1896. I hold in my hand a copy of these Police Regulations issued by the Commissioner of Police, London. The rules submitted by the Commissioner of Police, Calcutta, followed those rules exactly.

"Having therefore ascertained what we wanted to do, it was thought desirable to sanction these rules, or rather to take legal power to pass rules such as were submitted by the Commissioner of Police, or such other rules as might be found necessary from time to time. The Bill has been drafted for this purpose. The Statement of Objects and Reasons attached to the Bill is in the hands of Hon'ble Members, and it shows distinctly why a Bill of this kind is required.

"As Hon'ble Members are aware, in this country horses are not so well broken as they are in England and on the Continent. I may say the primary education of horses in this country leaves much to be desired, and their higher education has been altogether neglected. I think if Hon'ble Members in this country who have experience of the speed with which motor cars are driven in London, and in the country in England, and on the Continent as I have myself seen them, were to see motor-cars driven at such a speed in this country they would be astonished. I think there is no reason for me to dwell at any length on the desirability of giving such powers to the Commissioner of Police and the Magistrates of the towns of Bengal as we propose to take in this Bill.

"The English Act, which I have mentioned, contains some substantive provisions with regard to the regulations for lights, and for the ringing of bells and for the rate of speed. It also enacts that the keeping for use of petroleum or other inflammable liquids is to be subject to regulations made by the Secretary of State. In another section of the Act power is taken by the Local Government Board to make regulations. The regulations made are those to which I referred just now as having been issued by the Commissioner of Police, London. Our Bill does not altogether follow the lines of the English Act in laying down any substantive law. It rather takes power to make rules to provide for the definite objects which we have in view. That really comes in practice to be a distinction without a difference.

"It may be said that this Bill, to some extent, overlaps the provisions which are already to be found in the Calcutta and Suburban Police Acts. That is so, but those provisions in the Calcutta and Suburban Police Acts which only apply to the regulation of traffic and to the use of carriages and vehicles, and so on, do not provide altogether for everything which we wish to provide for. And it was thought better in this matter to have a little consolidated Bill—a Bill which combines in itself all that we wish to do in regard to motor-cars, rather than to supplement the existing provisions of the Calcutta and Suburban Police Acts.

"With regard to the mufassal I may say that the Bill, as you will see by the third clause of the first section, may be extended to any other town in Bengal. Now already in the mufassal towns of Bengal considerable power

exists for regulating traffic and preventing obstructions and encroachments on roads. Those powers, however, are not exactly the powers which we wanted for dealing with motor-cars. This will be seen by a reference to the different headings of sub-clause (2) of clause 2 of the Bill. But so far as the mufassal towns have powers and can use them to regulate the use of motor-cars, it will of course be unnecessary for them to apply to Government for the issue of rules.

"So far as Calcutta is concerned there can be no question that some rules are necessary for the proper regulation of motor-cars driven in the streets.

"I should say a few words with regard to the use of cycles, which it is also proposed to take power to regulate by this little measure. At present there is no legal power to frame a rule prohibiting the riding of cycles on footpaths. Cycles are not driven, nor are they carriages. Therefore they do not come under the present provisions of the Police Acts. It is desirable that there should be power taken to regulate the use of cycles which may become a nuisance and a danger to the public if improperly used. There are certain provisions in the Police Acts which refer to the rule of the road, but they would not, of course, refer, unless this Bill is passed, to the use of cycles. It was only a day or two a go that a gentleman wrote to the papers (sending me a copy of his letter) saying that we should be particularly careful of the extraordinary behaviour on the part of Calcutta cyclists as to which side of the road they monopolised. In fact it was an instruction to me to take care that provision was made in our measure for the use of the right portion of the road, that is, the new side, by cycles when in use in Calcutta.

"I think I have explained nearly all the provisions which the Council would care to hear. But there is one matter of importance which I must not overlook. In the English Act it is laid down that the speed of these motor-cars should not exceed fourteen miles an hour; and by the Regulations issued under the English Statute the speed is not to exceed twelve miles an hour. That would be the speed which it would be proposed to insert in the rules under this Bill, or, at any rate for the present, I presume that would be the rate which would be authorised as a maximum. It has been suggested that there should be no rule on the subject; but I think in such a matter we can be safely guided by the English law and by the English practice on the subject.

"The next point is that it has been suggested that all drivers of motor-cars should be required to hold a certificate of competency. I am informed that this is the law and the practice on the Continent, but I have no information on the subject otherwise; but be that as it may, I think it would be going rather a little too far in this matter, and that we may leave it to the individual to care for his own life and personal safety, and not to drive a motor-car, or not to drive with a friend in a motor-car unless the driver is competent to manage it; and therefore it is not proposed to take any power to insist on a certificate of competency from the driver of a motor-car.

"The penalty which it is proposed to attach for in fraction of the rules has been put at Rs. 50 for the first offence, and Rs. 100 for subsequent offences. The penalty in the English Statute amounts to £10, so I do not think any one can complain about the undue severity of the penal clause introduced into the Bill.

"The last section of the Bill, authorising the arrest of offenders without a warrant, follows the rule that was sent up by the Commissioner of Police on the authority of the English rules, and it is a reasonable one. Otherwise it would be perfectly easy for the driver of a motor-car to escape after having broken the law, if power was not given to the police to arrest him without a warrant in the best way they can. I do not know how they will always catch the driver of a motor-car, but that is their business. But it would be a serious thing to be necessary for a police officer to apply for a warrant in each case or to be debarred from immediate action by having to apply for summons.

"With this explanation I commend the project to the Council, and beg to move the motion standing in my name."

The Motion was put and agreed to.

[*Mr. Buckland; the President; Mr. Macpherson.*]

The Hon'ble MR. BUCKLAND also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended—

The Hon'ble MR. BUCKLAND introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. BUCKLAND also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Gupta, the Hon'ble Mr. Greer, the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Babu Joy Gobind Law, the Hon'ble Mr. Elworthy, the Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca, and the Mover, with instructions to report at the next meeting.

The Motion was put and agreed to.

THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903.

The Hon'ble MR. MACPHERSON moved for leave to introduce a Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897. He said:—

"This important task has fallen to me because as Revenue Secretary to Government during the last twelve months I was in charge of the correspondence relating to this measure. The Bill, which I hope to be permitted to present to the Council, is the most important proposal for land legislation which has been made in Bengal since the Bengal Tenancy Act was passed by the Council of the Governor General in 1885. The question of the legislation to be undertaken for improving the relations of landlords and tenants in Chota Nagpur has been under the consideration of the Government, the Board of Revenue and the local officers for thirteen years. It is incumbent on me therefore, I think, to offer some remarks with the object of linking up this proposed legislation with the history of the Chota Nagpur Division and with the special Acts which have before been passed for that Division. It is also necessary for me briefly to explain the course of the discussions of the last thirteen years, which has resulted in the Commutation Act of 1897 and in the present Bill.

"The British districts of the Chota Nagpur Division, viz., Hazaribagh, Ranchi, Palamau, Singhbhum and Manbhum, were separated from the Regulation districts of Bengal and were constituted non-Regulation districts by Regulation XIII of 1833. For some time they were administered as the South-West Frontier Agency, and since Act XIV of 1874 was passed, they have been known as Scheduled districts.

"It is not proposed in this Bill to deal with Manbhum. Neither of the two Acts to be amended is in force in Manbhum. Manbhum is, in many respects, more closely assimilated to the neighbouring Bengal districts than to the rest of the Chota Nagpur Division; and its Rent Act is Act X of 1859, for which, perhaps, the Bengal Tenancy Act may be substituted at no very distant date.

"The districts, then, for which we propose to legislate are Hazaribagh, Ranchi, Palamau and Singhbhum. They have an area of about 23,000 square miles and a population of rather over 3½ millions. One of the features of the Census taken two years ago was the large increase of the Christian population in this Division, who now number 144,000. The conversion of a large number of the aboriginal population to Christianity since the Missions began work in the middle of the last century has been a factor of some influence in the course of the land questions which have arisen.

[*Mr. Macpherson.*]

"The state of society in Chota Nagpur is still, as described by the Hon'ble Mr. Reynolds, when in 1877 he introduced in this Council the Bill which became Act I of 1879, very conservative and even primitive. The landlords in general belong to one race and the tenants to other races. Many of the landlords are, or claim to be, Rajputs, while the tenants are, to a large extent, of Kol or Dravidian origin. A very picturesque account of the conditions of agricultural life and landholding in Chota Nagpur was given six years ago in this Council by the late Mr. Grimley, a former Commissioner of the Division, in the debates which preceded the passing of the Commutation Act of 1897 (one of the two Acts which it is proposed to amend).

"I can recommend to Hon'ble Members who may wish to master the land questions of Chota Nagpur and the history of former legislation on this subject that the speeches made in this Council by the Hon'ble Mr. Grimley in 1897; by the Hon'ble Mr. Reynolds in 1878, and by the Hon ble Mr. Dampier in 1868 and 1869, are well worthy of study. There is also a very interesting sketch of the land organisation of the Kol and Dravidian tribes of Chota Nagpur in Sir Henry Baden Powell's book on the Land Systems of British India.

"I may remind the Council that there has been agrarian trouble in Chota Nagpur, more or less acute, ever since the disturbances of 1831, known as the Kol Rebellion. Those disturbances were attributed by Dr. Davidson, the Principal Assistant to the Agent to the Governor General, to acts of oppression committed by the landlords and their representatives. The disturbances were renewed in 1858, the year of the Mutiny, and after much agitation the first remedial measure was passed in the Chota Nagpur Tenures Act of 1869, of which the object was to ascertain, record, and regulate the lands belonging to the Bhuinhari, Majahas, and Bhetkheta tenures.

"Land, it may be mentioned, in Chota Nagpur falls for the most part under the three divisions of Bhuinhari, that is held by persons claiming to be descendants of the original founders of the village; Majahas, that is reserved for the absolute use of the village zamindars; and Rajahas, or ordinary rent-paying land. There are other tenures which I need not mention. The Act of 1869 did not provide for a record of the Rajahas land, and the Special Commissioner appointed under it dealt only with the Bhuinhari and Majahas land.

"Ten years later was passed the landlord and Tenant Act of 1879, which we now propose to amend. The Act of 1879 was based upon Act X of 1859, formerly the Rent Law for the whole of Upper India, which had been recognised as being in force in Chota Nagpur In practice however, as Mr. Reynolds explained, several important modifications of Act X of 1859 had been made in Chota Nagpur which rested on no specific legal basis, but upon orders of the executive authorities.

"I find that in his speech of the 29th December, 1877, Mr. Reynolds dwelt upon five matters of first-rate importance as then requiring attention. They were the occupancy right, the conditions of enhancement of an occupancy raiyat's rent, distraint, ejectment, and sales of tenures. With regard to occupancy right, it was said at the time that this right was never claimed, and that the great majority of the raiyats in Chota Nagpur were entirely in ignorance of its existence. I have not been able to ascertain how this assertion was reconciled with a statement made by Colonel Dalton, Commissioner of the Division, as far back as the year 1869, to the effect that the cultivators had generally obtained a right of occupancy. Mr. Reynolds remarked that there was no good reason for excluding the Chota Nagpur raiyats from this privilege; and the section of the older Rent Law (Act X of 1859) is substantially reproduced in section 6 of the Act of 1879. With regard to enhancement of rent, special provisions were made in sections 21 to 24 of the Act.

"The provisions of Act X of 1859 relating to distraint were omitted from the latter Act, on the ground that they had never been enforced, and that there was reason to apprehend serious agrarian difficulties if they should be enforced. It was provided that the right to eject a raiyat should not be exercised, except under a decree of Court. Sales of tenures and under-tenures were made subject to the approval of the Commissioner of the Division. These, I have said, were

the matters which attracted most attention in 1879, and the Act passed in that year was no doubt remedial in these matters.

"The Act did not, however, go to the root of the troubles, nor did the land have rest after it. The raiyats specially complained of exactions made by the landlords in the matter of services and cesses. From 1887 to 1890 the attention of Sir Steuart Bayley, at that time Lieutenant-Governor of the Province, was prominently drawn to agitations connected with claims made by the landlords for services, claims made by the tenants to hold land at quit-rents, petitions made by zamindars and raiyats for assistance of the authorities, and also to the intervention of the missionaries in the dispute. Rents were withheld and meetings were held at which leaders of the raiyats incited them to take possession of the Majahas land.

"The disputes continued during the last decade, and may be said to have culminated in the disturbances of 1899 to 1900, when troops and armed police had to be called out to put down acts of violence in the Munda country in Ranchi, which were committed by, and at the instigation of, religious fanatics, but which were intimately connected with the agrarian dissensions.

"The proposal first made by Sir Steuart Bayley's Government, which was endorsed by the local officers and accepted by Sir Charles Elliott, was to extend the Bengal Tenancy Act to Chota Nagpur. In 1892, after further inquiries had been made, Sir Charles Elliott was led to entertain doubts as to the desirability of extending the Bengal Tenancy Act in its entirety to Chota Nagpur. But the proposal to extend that Act, with the exception of a few sections, and to repeal the local Act I of 1879, still held the field till 1897, when Mr. Grimley introduced a Bill into this Council for the limitation of the enhancement of rent for the record and commutation of predial services and for the registration and resumption of tenures. The Bill proposed to repeal Act I of 1879, and it was intended to extend the Bengal Tenancy, save certain sections, by notification.

"In that year, however, the then Commissioner of Chota Nagpur, Mr. Arthur Forbes, opposed the substitution of the Bengal Tenancy Act for Act I of 1879 on the ground that the question had not been fully examined; and for this reason, and also because the Bengal Tenancy Act was itself at the time under amendment, the Select Committee appointed to consider Mr. Grimley's Bill recommended that the repeal of Act I of 1879 and the substitution of the Tenancy Act should be deferred. This recommendation was accepted by the Council; and Act II of 1897, known as the Commutation Act, is confined, therefore, to the subject of record of predial services, that is to say, services of ploughing, digging, sowing, and reaping for the landlord and carrying the landlord's burdens in journeys and their commutation into cash payments.

"There remained the question of extension of the Bengal Tenancy Act, or of amendment of the local Act of 1879, and on this question there has been much correspondence during the last five years, local Conferences have been held, and three distinct Bills have been drafted. Mr. Forbes was supported by a general consensus of local opinion in his view that the extension of the Bengal Tenancy Act *en bloc* to the Division was an unsuitable measure. The Board of Revenue and the late Lieutenant-Governor accepted this view; and further decided, while admitting the great official convenience of having the law in a compendious Act, that legislation should be undertaken in the simplest and least contentious form; in other words, that it would be better to have an amending rather than a consolidating Bill.

"The reasons which led the late Sir John Woodburn to this decision were partly political and partly administrative. With reference to the rising of the Mundas in Ranchi in 1890 and 1900, it seemed to the Lieutenant-Governor to be inadvisable to introduce a Bill which might lead to lengthy discussions and give rise to wild rumours among an easily-excited and very credulous people. Furthermore, it appeared that until a survey and record-of-rights had been prepared, it was impossible to say whether the provisions of the Bengal Tenancy Act were really suitable to the conditions of this wild area.

"Sir John Woodburn held, therefore, that legislation should be limited for the present to what is absolutely necessary for the appeasement of agrarian troubles in Chota Nagpur. The measures for which in his judgment legislative action is urgently required are those which come under the eleven heads set forth in the Statement of Objects and Reasons appended to this Bill. And the late Lieutenant-Governor further recorded his opinion that 'the essence of the whole business is to get a correct record of existing facts in tenants' holdings.' In this view he proposed that a survey and record-of-rights should be undertaken at first in the Munda tract, an area of some 1,800 to 2,000 square miles in the Ranchi district; and survey operations in this tract were sanctioned by the Government of India and were commenced just a year ago. Hon'ble Members may have noticed that a Notification was published in a recent Gazette extending to Chota Nagpur those sections of the Bengal Tenancy Act which authorise a survey and record-of-rights.

"Sir John Woodburn's proposals for legislation on the lines of the present Bill were made to the Government of India early in the year 1901, and the Government of India promptly replied that they were in complete agreement with the Lieutenant-Governor that legislation is required to amend the law of landlord and tenant in Chota Nagpur, and gave their assent to the general form which it was proposed that the legislation should take. Before giving a final opinion, however, on the precise form and scope of the needful changes in the law, the Government of India asked the Lieutenant-Governor to consider the desirability of giving finality to the legislation by dealing with the questions of occupancy right and rent settlement.

"This injunction necessitated a reference back to the Board and to the local officers, and another year was occupied with discussion of these two difficult questions, with the result that the Government of India ultimately accepted the late Lieutenant-Governor's view, which coincided with that of the local officers, that the question of introduction into Chota Nagpur of the provisions of the Bengal Tenancy Act on the subject of the occupancy right should be postponed until the completion of the survey and record-of-rights which has begun in the Ranchi district.

"Except, therefore, in the adoption in clause 2 of this Bill of the definition contained in the Tenancy Act of a 'raiyat, and except also in adoption in clause 3 of a section of a Central Provinces Act with regard to lands exchanged, it is proposed to leave the occupancy right question in Chota Nagpur alone for the present, that is, to leave it as the Act of 1879 left it.

"With regard to fixation of rents, I shall invite the attention of the Council to clause 9 of the Bill, which proposes a new section—28B—in adaptation of a section of the Bengal Tenancy Act. It will be for the Select Committee and the Council to decide whether this clause provides a satisfactory solution of a difficult question. The difficulty of the question consists in the treatment of areas held in excess by raiyats, and it will be a principle new to this province to enact that there shall be fixity of rents recorded without settlement The object of Government is to prevent enhancement of rate; but the late Lieutenant-Governor recorded his opinion that the landlord should not be excluded from rent for any excess area which the tenant may subsequently take up.

"Clause 5 of the Bill contains two new sections, based on the law, in the Central Provinces, which impose restrictions on the sale or other transfer of the rights of raiyats. This is a policy of great importance, which merits the close attention of the Council.

"The Bengal Tenancy Act allows free transfer of permanent tenures, and leaves the validity of transfers of ordinary raiyati holdings without the consent of the landlord to custom, but does not prohibit transfers of such holdings. In special areas of this Province, such as the Sonthal Parganas, the Kolhan estate in Singhbhum, and in Angul in Orissa, transfer of tenant right is restricted by executive order, which in the case of the Sonthal Parganas may be said to have the force of law, inasmuch as it is based on provisions of a Regulation which give large powers to Government and to Settlement Officers. Transfers of raiyats' rights are said to be contrary to custom in Chota Nagpur. Writing of the Hos in Singhbhum, Dr. Manuk, who long held office as an

Assistant Commissioner in that district, said:—'A Ho cannot dispose of his lands as he chooses. The land does not belong to him; it is hereditary, inalienable, and must descend to his sons and sons' sons; and if a Ho has not direct male issue, the land goes to his brother or next-of-kin; and if no kith or kin, to the village community represented by the Munda.'

"I have drawn the attention of the Council to three of the principal amendments of the law which are proposed in this Bill, or which have been considered by Government, and I shall briefly mention three more. The first is clause 6 of the Bill, which would enact a provision similar to a section of the Central Provinces Tenancy Act of 1898, empowering Revenue Officers to impose a fine for exactions in excess of rent. This is not an entirely novel provision. Section 11 of the existing Act of 1879 gives tenants a right to recover damages for exactions in excess of rent; and section 75 of the Bengal Tenancy Act authorises a Civil Court, on institution of a suit by the tenant, to award a penalty not exceeding Rs. 200, or not exceeding double the amount levied in excess. The Central Provinces section, however, is more stringent in this matter, and it may be more suitable to the conditions of Chota Nagpur, where illegal exactions are such a danger to the peace of the country.

"The next matter is the provision made in clauses 19 and 20 for giving relief to zamindars in recovering rents from tenure-holders, and especially from holders of resumable tenures. The necessity of giving such relief to superior landlords was strongly pressed upon Government by Mr. Forbes, the late Commissioner of the Chota Nagpur Division.

"The third matter is the provision made in clause 27 for the amendment of the Commutation Act of 1897, in which a defect has been found. It is desirable that commutation of predial services, that is, of the labour services rendered by the tenant, should be placed on a more equitable basis.

"With these remarks, which, I fear, have been wearisome, but which were the least that I could offer on a great subject, I ask for the leave of the Council to introduce this Bill."

The Hon'ble Dr. Asutosh Mukhopadhyaya said:—"Before the motion of the Hon'ble Member in charge of the Bill is put to the Council, I would ask permission to make a few observations on the importance of the measure which I welcome as a very necessary piece of legislation. The very fact that the Act which is now sought to be amended was passed 24 years ago, during which time the information at our disposal, regarding the land law of Chota Nagpur, has been considerably increased, would be sufficient to show that a revision is necessary. On looking at the Statement of Objects and Reasons it will be found that it is proposed to alter not only the substantive law but also the adjective law on the subject. Heads 1 to 6 and 11 deal with the substantive law on the subject, and 7 to 10 deal with the procedure applicable to suits between landlords and tenants.

"As regards the substantive law, very important changes are proposed in the sections dealing with occupancy rights, right of registration, the right to alienate a holding, and the preparation of a record-of-rights. As regards first of all the clauses relating to occupancy rights, the registration of rights and the right to alienate a holding, I entirely agree with the Hon'ble Member in charge that they are needed and are intended to protect the interests of an aboriginal ignorant population. As regards the preparation of a record-of-rights, it is unquestionable that such a record is necessary in order to enable the Government to have reliable materials for legislation in future.

"But, so far as the procedure goes, I would have been glad if the Bill had been fuller. I will explain in a few words what I mean. Act I of 1879, the present Chota Nagpur Act, was modelled on the Bengal Rent Act X of 1859. When Act X of 1859 was drafted we had no elaborate Code of Procedure. The consequence was that Act X of 1859 not only contained the substantive law on the subject, but also the procedure applicable to suits for rent between landlord and tenant. This part of Act X of 1859 was necessarily incomplete, because you cannot in one Code comprehend the whole of the substantive law

and the whole of the procedure, so far as rules are necessary for regulating suits between landlord and tenant. When Act I of 1879 was passed, Act X of 1859 was taken as its model. But when the Bengal Tenancy Act VIII of 1885 was passed, the Legislature had before it an elaborate Code of Procedure, namely, the Civil Procedure Code of 1882. The consequence was that in Act VIII of 1885 we find a provision to the effect that the rules contained in the Code of Civil Procedure are ordinarily applicable, subject to certain modifications stated in the Act, and I would submit that when we amend the Act of 1879, a similar course may be followed.

"I will give one illustration to the Council. Act I of 1879 is silent as to the right of appeal in rent suits to the High Court. From 1879 up to 1900, that is to say, for 21 years, appeals were allowed to the High Court on the analogy of appeals being allowed to the High Court under Act X of 1859; but in 1900 a Full Bench of the High Court decided that as Act I of 1879 contains Rules of Procedure, the Act must be taken to be a Code complete in itself; and as the Act nowhere says that appeals may be preferred to the High Court, there is no right of appeal under Act I of 1879 to the High Court. Of course it is not for us to say if this is the right view of the law or not, but this is how the law has been interpreted by a Full Bench of the High Court. The consequence is that, whereas in a suit for rent between landlord and tenant under the Bengal Tenancy Act an appeal is allowed to the High Court, under Act I of 1879 no such appeal is allowed.

"Now, as we are going to amend this Act and are putting in a number of new provisions in the clauses relating to occupancy rights and the right to transfer holdings, there can be no doubt that questions of interpretation of these sections will from time to time arise. Is it desirable that these questions of law should be decided once for all by an inferior Court, or is it desirable that the High Court should be given an opportunity of judging of the correctness or otherwise of those decisions? If I had to give an opinion on this point, you know what my answer would be. I think if any question of interpretation arises, the High Court ought to have an opportunity of settling the matter.

"I should therefore ask the Hon'ble Member in charge of the Bill, at a later stage, when the Select Committee has been appointed, to consider more fully the question of procedure applicable to rent suits under the Chota Nagpur Act.

"I may give another illustration. I find that in section 21 of the Bill we have a provision which is modelled upon section 174 of the Bengal Tenancy Act. It is a very salutary provision. It enables a judgment-debtor to have the sale of his holding set aside under certain conditions. But since the passing of the Bengal Tenancy Act, a section has been put into the Civil Procedure Code (section 310A) which entitles all judgment-debtors to have sales of their property set aside under similar but not exactly the same conditions. I will point out to you in what the difference consists. Under section 174 of the Bengal Tenancy Act, as also under section 21 of this Act, a sale may be set aside if the amount recoverable, with costs, is paid. That leads often to disputes as to what the exact amount recoverable under the decree is. But section 310A of the Civil Procedure Code entitles an applicant to have a sale set aside upon payment of a determined sum, namely, the amount specified in the sale proclamation by the decree-holder. This clearly simplifies matters, and the new section in the Bill before us may perhaps be modified in the direction indicated by me.

"These are merely suggestions which I throw out for the consideration of the Hon'ble Member in charge of the Bill, at a later stage, when the matter comes before the Select Committee.

The Motion for leave to introduce the Bill was then put and agreed to.

The Hon'ble MR. MACPHERSON applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and moving that it be read in Council.

[*The President; Mr. Macpherson.*]

The Hon'ble the PRESIDENT having declared the Rules suspended—

The Hon'ble MR. MACPHERSON introduced the Bill and moved that it be read in Council. He said:—

"I think that when this has been done, we shall have done what is possible to advance the consideration of this measure which has been so long on the anvil. The next stage will be to move that the Bill be referred to a Select Committee, and at that stage, I understand, that Hon'ble Members will have an opportunity of discussing the policy of the Bill. With the permission of the Council I introduce the Bill and move that it be read in Council."

The Motion was put and agreed to.

The Bill was read accordingly.

The Council adjourned to Saturday, the 7th March, 1903.

CALCUTTA;
The 16th March, 1903.

J. G. MORISON,
Offg. Secretary to the Bengal Council, and Assistant Secretary to the Govt. of Bengal, Legislative Department.

B. S. Press—12999—50—12-6-1903—J. M.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 7th March, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

QUESTIONS AND ANSWERS.

CHANGE IN THE ADMINISTRATION OF ORISSA DIVISION.

THE Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked :—

Is it true that it is the intention of Government to sever Orissa from the Bengal Administration and to place it under the Administration of the Central Provinces?

If no such change of Administration is under consideration, will the Government be pleased to allay the alarm which the news of such a possible change has created in Orissa?

The Hon'ble MR. HARE replied :—

"No such proposal is under the consideration of the Government of Bengal."

LANDLORDS' FEES.

The Hon'ble MR. COLLIN, in continuation of the answer given to Questions Nos. II and III of the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, at the Council Meeting of the 7th February, 1903, said :—

"The Board of Revenue have furnished a statement showing the amount of landlords' fees realized under the Bengal Tenancy Act from the date of passing of the Act up to the end of the last financial year, and the amounts held in deposit at the close of that year in the several district treasuries in the Chittagong Division. The figures are as follows :—

DIVISION.	Distri t.	LANDLORDS' FEES		REMARKS.
		Realised.	Held in deposit.	
1	2	3	4	5
		Rs.	Rs.	
Chittagong ...	Tippera ...	16,623	12,360	
	Noakhali ...	48,542	32,229	
	Chittagong ...	84,464	79,571	

THE BENGAL MOTOR-CAR AND CYCLE BILL, 1903.

The Hon'ble MR. BUCKLAND presented the Report of the Select Committee on the Bill for regulating the use of motor-cars and cycles in streets and public places in Bengal.

The Hon'ble MR. BUCKLAND also moved that the Report be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said :—

"The Select Committee met the other day and gave the Bill before them the most careful consideration; the alterations they had to suggest are only of a minor character and in regard merely to details. I propose first, with Your Honour's permission, to describe briefly the

[*Mr. Buckland.*]

small changes which are included in the Bill. In the first place, we propose to insert the words 'or area' in clause 1, sub-clause (3), so as to make it possible for Government to extend the operations of the Bill to any area they think necessary outside the town. It seemed to be desirable, when rules may be made for Calcutta and Barrackpore, or say for Dacca and Narainganj, or, again, say for Patna and Dinapur, to give power to the Local Government to make rules for controlling the use of motor-cars and bicycles on the roads and streets between these places, respectively. It is quite possible that before very long motor-cars may be in use in the Chota Nagpur Division. It seems, therefore, desirable, while we are undertaking this legislation, to give power to the Local Government to enable them to include in the operation of the Act areas outside of towns. Whether they will ever avail themselves of it is, of course, for the consideration of the Government, but it seemed undesirable to tie their hands by limiting the operation of the Act strictly or merely to towns. In the second place, in the amended Bill, a definition of what is a motor-car has been inserted. This has been rather widely drawn on purpose. I have not been able to find any definition of 'motor-car,' but in the English Act there is a description of locomotives to which the Act is intended to apply, rather than a strict scientific definition. Our purpose, therefore, was to make a definition, or so-called definition, of motor car, which would reasonably include any such vehicles as those to which we intend the Act to apply. It has been drawn rather widely so that it may apply hereafter also to traction engines.

"In clause 3 (*1*) of the amended Bill we have endeavoured to make it clear that the rules the Local Government intend to make under this Act should be previously published for criticism, and that the Government should have the power to modify or cancel such rules from time to time.

"In the second sub-clause of the third clause of the Bill we have added some words to make it clear that the rules which may be drawn up when applying to the following matters which are named in the Bill may also apply to other matters which are not named. It was for this object that we have resorted to the addition of the words 'without prejudice to the generality of the foregoing power.' I think this form will commend itself to the Council so as not to limit unduly the power of the Local Government to make rules under this Act.

"The other changes which have been proposed to be made in the Bill are shown in italics in the sub-clauses (*d*), (*f*), (*i*), (*k*) and (*n*).

"When I was introducing the Bill in Council, I said I did not propose to require from the driver of a motor-car any certificate of competency, but it was pointed out to us in Select Committee that it was desirable that there should be some standard of competency required from the driver. I have therefore introduced a few words into the Bill which will make it possible for the Local Government to insist upon a standard of competency, in the form of a certificate, from the driver or person in charge of a motor-car. It is required, I am told, on the Continent, and on reflection it seems to me that on the whole it is desirable that in a country like India we should require a certificate of competency from the driver or person in charge of a motor-car: the Select Committee have, therefore, introduced these words, acting on such advice as we had before us.

"Sub-clause (*f*), prohibiting the leaving of motor-cars unattended or in the charge of incompetent persons, speaks for itself. It will never do to have motor-cars ready for driving left about the streets, which might go off themselves if not properly attended to.

"In another sub-clause (*i*) we have added a provision to make a rule to insist upon the carrying of number and name-plates on motor-cars. It has been pointed out that often the only means of identifying a motor-car will be the number on the side or end of it. I shall move later on to amend this sub clause in a slight degree by providing for the registration of these numbers and name-plates.

"I will next refer to sub-clause (*n*), relating to the stoppage of motor-cars when required by the police for the regulation of traffic. It seemed desirable to give the police power to stop motor-cars when it was desirable to do so in the interests of the traffic. My attention has been called to the fact that this power

will not be sufficiently wide, and that the police might from time to time require to stop a motor-car when it might be contested that the stoppage was not altogether necessary for regulating traffic. I shall have to say a few words on that subject when I come to deal later on with an amendment which I propose to that sub-clause.

"I omitted just now sub-clause (*k*), which refers to cycles and the riding of cycles on footways, streets or other places where their use may be attended with danger to the public. When I introduced the Bill in Council the other day my attention was drawn to two decisions in the English Courts. It was pointed out that it seemed to have been held in England that the term 'carriage' included 'bicycle'. When we looked into those decided cases it did not appear to me to be clear that this statement was altogether correct. In the one case it was held distinctly that a bicycle was not a carriage for the purpose of paying toll under the English Act, and in the other case it was held that a bicycle was a carriage when a prosecution was instituted for driving furiously. When we came to consider this point in the Select Committee it also transpired that, when the Calcutta Municipal Act was on the legislative anvil in 1899, care was then taken to define 'carriage' so that it did include a 'bicycle'. It therefore seemed to us most likely that the Indian Courts would decide that a bicycle was not a carriage within the meaning of the Calcutta and Suburban Police Acts. It therefore seemed desirable to adhere to the opinion that I ventured to submit in introducing the Bill that we should take care to provide by legislation for the punishment of people who ride bicycles on footways, streets or other places where their use was attended with danger to the public, and also with regard to the rules of the road, so as to make it quite clear that, whatever was the previous opinion with regard to bicycles not being carriages, the point should be quite clear for the future that the abuse of bicycles on footways, streets and public places is to be punishable.

"The last clause that we have inserted is that offences committed in contravention of this Act shall be triable by Presidency Magistrates or by any Magistrate of the first class within whose jurisdiction the offence may have been committed. It was thought desirable that power should be taken so as not to leave a matter like this, which might perhaps be a difficult one to be decided, to any Magistrate of the third class or of inferior status to a Presidency Magistrate of the first class.

"I think I have nothing more to add to show to the Council in what respects the Bill has been amended by the Select Committee.

"I trust this Bill will be found to be a useful measure, and that it will help the police materially in the regulation of traffic and the use of motor-cars and cycles in Calcutta and the other towns and places to which it might be made to apply.

"I therefore beg to move that the Report be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee."

The Motion was put and agreed to.

Clause 3.

The Hon'ble MR. BUCKLAND also moved that in clause 3, sub-clause (*2*) (*i*) of the Bill as amended, after the words "on motor-cars" the words "and the registration thereof" be inserted. He said:—

"My attention has been drawn to the necessity of some few words, such as I have mentioned, for the reason that motor-cars can go great distances, and the only way of identifying them and tracing them will be by the numbers on the cars. It is not of much use to have numbers on the motor-cars unless there is some central place where the numbers are registered through which their owners and drivers may be traced. It may easily be imagined that a motor-car may go dashing along at a speed of, say, 12 miles an hour, and that all that can be distinguished is the number. It is obvious that there should be some office or institution to apply to from which can be traced, by means of the

number, the owner of the car. I presume, if these words which I propose to add are accepted, as I trust they will be, that the Government would, in making a rule, lay down that every person possessing a car and wishing to use it, must register his name and number at some office, *i.e.*, either with the Commissioner of Police or the Chairman of the Corporation, or Head of the Municipality, or the Magistrate and Collector of the district where he proposes to use it. I think it is a little provision which we ought to insert in the Bill, so as to give the Government power to make rules to this effect."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND also moved that in sub-clause (*2*) (*n*) of the same clause, after the word "traffic" the words "or for other reasonable purpose" be inserted. He said:—

"It is far from my desire to put unlimited power in the hands of the police, and I do not think we are doing so by inserting these words. Occasions may arise on which the police ought to interfere and stop motor-cars from proceeding for other reasons than merely for the regulation of traffic. I have thought of such cases, as, for instance, the obvious inability of the driver to manage his car either at starting or on a clear road; or when it may be necessary for the police to warn the driver of some obstruction in the road ahead; or, for instance, it may be necessary for the police to get on to a car to inquire and find out the address of the driver or to see whether he holds a proper certificate of competency. These are cases which have occurred to me, in thinking this over, where the police may reasonably be required to use their power, not necessarily for the regulation of traffic but to carry out the purpose of the Act in regulating the use of the cars driven, and preventing injury to the public or inconvenience to the driver of the car himself. Other cases may occur to Members of the Council. It is rather difficult to think of all possible cases. I use the words 'or for other reasonable purpose,' so that the police will have no excuse for interfering unnecessarily. I therefore beg to move that in sub-clause (*2*) (*n*) of the same clause, after the word 'traffic' the words 'or for other reasonable purpose' be inserted."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND also moved that in sub-clause (*2*) (*o*) of the same clause the word "unnecessary" be omitted. He said:—

"In looking up the Act on which this Bill was drawn and modelled, I do not find the word 'unnecessary,' and clearly it is not wanted here. What we want is that the Government should have power to make rules for the prevention of obstruction of traffic. It may well be said that all obstruction of traffic is unnecessary and undesirable. The word 'unnecessary' must have crept in (apparently in drafting, though I am not prepared to say so), and I regret that it escaped my notice before when we were dealing with it in Select Committee. I do not think anybody would wish to legalise any necessary obstruction to traffic. I think the omission of the word 'unnecessary' is most desirable."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND also moved that the Bill, as settled in Council, be passed. He said:—

"The explanation I made to the Council, I am afraid, at some length, just now, and the explanation I gave in asking for leave to introduce the Bill a few days ago will, I hope, have put the Council in possession of all the reasons that seem to make it necessary to have a Bill of this sort, and for having it drafted in the form which we have adopted in this measure. I think it will be admitted that Calcutta should not be behind the times in the matter of the regulation of traffic. Though motor-cars may not have appeared in very large numbers at present, we all know that there are some about the streets, and as they get cheaper at home, more will be in use here, and it

seems to me to be high time that some measure of this kind should be on our Statute Book to give the police power under the rules drawn up by Government to interfere with the abuse of motor-cars in this and other towns and areas in Bengal to which it may be applied."

The Motion was put and agreed to.

THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903.

The Hon'ble MR. MACPHERSON moved that the Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897, be referred to a Select Committee consisting of the Hon'ble Mr. Gupta, the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Maharaja Bahadur of Gidhour and the Hon'ble Babu Chaturbhooj Sahay, with instructions to report on the 1st August next. He said :—

"In making this motion, I have to say a few words only with reference to the remarks made at the last Council meeting by the Hon'ble Dr. Asutosh Mukhopadhyaya. The Hon'ble Member pointed out that the Bill before the Council proposes both to amend the substantive law of landlord and tenant in Chota Nagpur and also the adjective law, that is, the judicial procedure; and with regard to the procedure, the Hon'ble Member recommended that, instead of retaining the special procedure of the Act of 1879, we should make the rules of the Civil Procedure Code ordinarily applicable. This is the course which has been followed in the Bengal Tenancy Act of 1885, except in the case of suits for recovery of rent.

"Under the Bengal Tenancy Act the High Court has power, with the approval of the Governor General in Council, to make rules declaring that any portions of the Code of Civil Procedure shall not apply to suits between landlords and tenants or to specified classes of suits. But the High Court has not exercised this power.

"On the other hand, with regard to suits for recovery of rent, the Bengal Tenancy Act itself contains special provisions which oust the Civil Procedure Code.

"Now, if we adopt the Hon'ble Member's suggestion, we should probably enact sections similar to sections 143 and 145 of the Bengal Tenancy Act in place of the numerous procedure sections of the Act of 1879. I would not say that such a course may not ultimately be desirable. But before we could take such short cut, we should have to make a careful and elaborate comparison of the procedure sections of the Act of 1879 with the corresponding sections of the Code of Civil Procedure and of the Bengal Tenancy Act; and it would be necessary for the local officers and persons interested to consider, section by section, what is to be said in favour of retention or otherwise of about 100 sections of the existing Act of 1879. Such an examination in full of the procedure sections would go beyond the intention of Government, which, as I explained at our last meeting, is that immediate legislation should be confined to what is necessary for the appeasement of agrarian trouble.

"Another point which occurs to me as necessary to be remembered is that rent suits are at present tried in Chota Nagpur by Revenue Officers, and that if we substitute the provisions of the Code of Civil Procedure and of the Bengal Tenancy Act for Act I of 1879 in Chota Nagpur, such suits must in future be tried by Munsifs; or if we specially provide that Revenue Officers shall continue to try such suits, it will be necessary for the Revenue Officers to acquaint themselves with the Code of Civil Procedure.

"While, on these considerations and on the information which Government at present holds, I am not prepared to advise the Council to make such a comprehensive change of the procedure of the Act of 1879 as was indicated by the Hon'ble Member, I have permission to state that there will be no objection

[*Mr. Macpherson; Babu Chaturbhooj Sahay.*]

on the part of Government to discussion by the Select Committee of the two particular matters of procedure to which the Hon'ble Member drew attention, viz., the appellate jurisdiction of the Honourable High Court under the Act of 1879 and the modification of clause 23 of the Bill on the subject of setting aside judgment sales so as to bring the clauses into nearer conformity with section 310A of the Code of Civil Procedure.

"The first suggestion is, I think, of considerable importance, and it may properly be circulated for opinion, when the Bill is referred to the local officers and to non-officials in Chota Nagpur.

"The second suggestion is one which will, I think, at once commend itself to the Select Committee.

"Any other particular suggestion with regard to procedure in suits, which does not obviously exceed the scope of the Bill, may also be considered by the Select Committee.

,, I now beg, Sir, to make the Motion which stands in my name."

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"The Bill, I am afraid, will be regarded as a piece of tinkering legislation by the public. It is very important, affecting, as it does, vitally the interests of both the landlords and the tenants in the Chota Nagpur Division. The provisions relating to (*a*) exemption of raiyats' rights in holding from sale; clause 5 (*b*) prohibition of transfer of raiyats' rights for more than two years are quite new and radical in their character. Whether the raiyats will be eventually benefitted or seriously hampered in their actions and agricultural lives by such provisions will have to be carefully considered in the Select Committee, but it would be interesting to know if the transfers which we are now going to restrict had had anything to do with the agrarian disputes alluded to by the Hon'ble Mover in his speech. It is said that transfers of the rights of raiyats in their holdings are contrary to custom in Chota Nagpur, and it is also admitted that the practice of transferring such rights is, however, gradually forcing its way. It becomes a question worthy of our consideration if we are to stifle or foster the growth of such a practice, which is in consonance with reason and commonsense. The whole thing has to be decided on local conditions and requirements.

"Clause 6 deals with the question of penalty on a landlord when he levies anything in excess of rent legally payable to him. The amount of penalty, viz., Rs. 500, or in some cases even more, for illegal exactions, however small, provided in the Bill, seems to me to be very excessive, and has no parallel in the Regulations or the Bengal Tenancy Act, and in the strained relations between the zamindar and the raiyats we ought to be circumspect and alive to the danger that by such a legislation we may not open a wide door to incessant false complaints on the part of the raiyats. The question will have to be particularly examined from this standpoint.

"There are other points which will require the most careful attention of the Select Committee, but the proviso added by clause 4 to section 9 of the Act we are seeking to amend seems open to the objection that in case of non-occupancy raiyats—and we are dealing with that case—the matter of settlement of rates of rent should be left to free contract and not clogged by any proviso of the kind we are dealing with.

"In the first place, it is very difficult to ascertain, with any degree of accuracy, the customary rate in cases of non-occupancy raiyats, should any exist. In the second place, the time has come when the raiyats of even Chota Nagpur can be left alone to understand their own interests whether they will take lease of any land or not and at what rate. It is fair that in this age of progress customary rate should give place to competition rate in cases of non-occupancy raiyats."

The Motion was then put and agreed to.

[*Mr. Inglis.*]

THE CHITTAGONG PORT COMMISSIONERS (AMENDMENT) BILL, 1903.

The Hon'ble MR. INGLIS moved for leave to introduce a Bill to amend the Chittagong Port Commissioners' Act, 1887. He said:—

"As explained in the Statement of Objects and Reasons which has been circulated to Hon'ble Members with the Bill, the main object of this Bill is to enable the Port Commissioners of Chittagong to increase their income. At present the Port of Chittagong has not got sufficient revenue to meet its ordinary working expenses, and the Port is virtually insolvent. The Port Commissioners are now under obligation to pay to the Bengal Government annually a sum of Rs. 18,815 in repayment of previous loans. For some years past they have had considerable difficulty in making these payments, and they have not been able to make them with any regularity. Last June a sum of Rs. 32,593 was due to the Government. They were not only unable to pay this sum, but in fact at that time they wrote and asked for an overdraft or advance of Rs. 5,000 to meet their current expenses, and at the same time they asked that the repayments of the loan might be deferred till their receipts shall allow.

"The business of the Port of Chittagong is increasing, and it has considerable possibilities before it. Various improvements to the Port are required; these cannot be made without funds, and it is quite certain that the business of the Port cannot be properly conducted without a larger income. Assistance has been given by the Provincial Government on various occasions in the past, and such assistance will, no doubt, be given in the future, but, I think, it will be generally accepted that before such assistance should be given from Provincial Revenues, it is incumbent upon the authorities who are responsible for the direct administration of the Port to take all reasonable steps to make it self-supporting.

"It is proposed in the Bill which has been drafted that powers should be taken to levy a river due on all goods exported from the Port or imported into the Port through sea-going vessels. The rate which may be charged is not less than one anna and not more than four annas per ton of goods. In determining in practice on the actual rate to be charged at any particular time the financial position of the Port and the nature and value of the goods will require to be considered. I may explain that the Bill provides that the rate may either be a general one to be charged on all goods, or it may be varied from time to time, and goods of one class charged at, say, four annas, and goods of another class at two annas or at one anna, and so on

"As regards the value which this due may have as a potential asset of the Port, this must vary with the volume of trade Taking the tonnage of goods as given in the Administration Report of the Port for the year 1901-1902, the exports of grain, jute and tea, which are the main staples of the Port, aggregated nearly 69,500 tons, while the imports of salt and mineral oil came to something over 21,000 tons. In addition to these articles, there is a certain trade in piece-goods and other commodities. Assuming 96,000 tons as the total of imports and exports, each anna per ton of the due will bring in about Rs. 6,000 a year. At the maximum rate the total probable increase of revenue to the Port would be about Rs. 24,000 a year.

"The incidence of the proposed due, even at its maximum of 4 annas a ton, is so small relatively to the value of the goods that it is hoped that it will have no appreciable effect in hindering the development of the trade of the Port, while, as I have already said, it is absolutely necessary that the Port should have an increased revenue.

"The other objects of the Bill, which are the authorising of leave being given to the Vice-Chairman and the appointment of a person to officiate as Vice-Chairman, and also the legalising of the grant of pensions and gratuities to the staff of the Port, are formal matters which call for no comment.

"I therefore now move for leave to introduce the Bill."

The Motion was put and agreed to.

[*Mr. Inglis; the President; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. INGLIS also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended—

The Hon'ble MR. INGLIS introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble Mr. INGLIS also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Gupta, the Hon'ble Mr. Collin, the Hon'ble Mr. Apcar, the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, and the Mover, with instructions to report at the next meeting of the Council.

The Hon'ble Dr. ASUTOSH MUKHOPADHYAYA said :—"I hope Sir, I shall be pardoned if I detain the Council with a few observations on this matter, I have been looking at the matter with some degree of care, and I feel some difficulty, which is no doubt capable of being removed, though there are some questions in connection with it which I cannot myself answer. In the first place. I understand that the object of the Bill is to secure an increase of revenue which is absolutely necessary. Why that cannot be done under the existing Act I cannot make out.

"Section 23 of the Act says :—

'When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, or by an order published in three consecutive numbers of the Calcutta Gazette, direct that no goods shall be landed or shipped from or in sea-going vessels within the port, save at such wharves, quays, stages, jetties and piers.'

"That is to say, if there is sufficient accommodation, all sea-going vessels may be compelled to use wharves, quays, stages, jetties and piers which have been erected by the Port Commissioners. Then under section 33 the Commissioners may frame—

'(*a*) A scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels respectively, at the wharves, quays, stages, jetties and piers and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods and for the use of any moorings.

'(*b*) A scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessel in case the Commissioners permit the goods to be landed or shipped by other than their own servants.

'(*c*) A scale of charges for any service to be performed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

'Such scale shall be submitted to the Local Government and, after approval or modification by the Local Government, shall be published by the Commissioners in the Calcutta Gazette.

'The Commissioners may from time to time in like manner, with the like approval or modification and publication, alter such scales.

'Every such scale shall be printed in the English and Bengalee languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.'

"So that the Port Commissioners have power under section 23 to oblige all sea-going vessels to use their wharves, and under section 33 they have power to levy tolls and charges; if the rates and dues which have been levied in the past have been found to be insufficient, the Port Commissioners have only to raise them.

[*Dr. Asutosh Mukhopadhyaya ; Mr. Inglis ; Mr. Apcar.*]

"The Hon'ble Member in charge of the Bill has not explained whether section 23 of the Act is in force, and whether it is compulsory upon all sea-going vessels to use the wharves erected by the Commissioners of the Port of Chittagong. If section 23 is in force, no further legislation is necessary. If section 23 is not in force, it must be due to the fact that there is no sufficient accommodation, and if there is not sufficient accommodation, I think it is open to sea-going vessels to land or ship their goods in places other than those erected by the Port Commissioners. Certainly it seems somewhat unreasonable, if this is so, to realise more money in order that they may be able to balance their income and expenditure from people who do not generally land their goods at their wharves, quays, stages, jetties and piers. Upon that point I would be glad if the Hon'ble Member would furnish some information.

"Then, again, if section 33 applies and is in force, tolls and dues may be recovered from all vessels, whether they are sea-going vessels or not. The term 'vessel' is defined in the Act and 'includes any ship, barge, boat, raft or craft or any other thing whatever, made for the conveyance by water of human beings or of property.' The present Act is confined only to sea-going vessels, and I think it would be desirable to define a 'sea-going vessel,' otherwise there may be disputes as as to whether a vessel is a sea-going vessel or not. I hope the Select Committee will bear this in mind and give us a practical definition of what is a sea-going vessel.

"There is another point I would like to mention. In the Bill it is suggested that the dues should be not less than one anna and not more than four annas a ton. I think it would be desirable to have a minimum weight fixed for the levy of the new rate. If a maund of potatoes, for instance, were landed, is it intended that some dues should be recovered, a maund being about one-twenty-eighth of a ton? This is a matter which the Select Committee might also bear in mind.

"These are all the observations I wish to place before the Council."

The Hon'ble MR. INGLIS said :—"With reference to the remarks of the Hon'ble Dr. Asutosh Mukhopadhyaya with regard to section 23 of the existing Act, I may mention that this question is at present under consideration. We have referred to the Port Commissioners of Chittagong as to whether the provisions of section 23 should be made compulsory on all vessels. A short time ago the Port Commissioners declined to make that section compulsory, but we have asked them to reconsider that question. I consider that, notwithstanding all the resources of the existing Act, we shall require assistance from the amendment proposed in the present Bill.

"The question of non sea-going vessels being compelled to use the wharves is also one which is under consideration, but at present the Port Commissioners have no facilities to that end. Inland vessels at present use private wharves and do not pay anything for their use. It has been suggested to the Port Commissioners that if they could arrange to build wharves and piers for the accommodation of inland vessels, they might put in force section 24 of the Act under which all non-sea-going vessels, can be required to use the smaller wharves and jetties and pay for their use. These points are receiving consideration, but I think the finances of the Port are such that it will be necessary to have power which may not always be enforced of raising an additional revenue by levying this river due or tax on goods as opposed to a port due or tax on shipping."

The Hon'ble MR. APCAR said :—"I should like to make just one observation with reference to what the Hon'ble Member has said with regard to section 23. I understand from the Hon'ble Mr. Inglis that this matter has already been considered by the Port Commissioners of Chittagong and that they have declined to exercise the discretionary power they possess to oblige all sea-going vessels to use their jetties. I think, with the knowledge I possess of steamers and their working, that the decision of the Chittagong Port Commissioners, is a very proper one. It would not do for all sea-going vessels to be

[Mr. Apcar.]

indiscriminately obliged to go to the jetties. The port is a tidal port in a river, and there are certain difficulties in getting in and out and in working there at times when the tide is unfavourable.

"Moreover, when the mail steamers come in they perhaps bring in about 30 or 40 tons of cargo and take away about 40 or 50 tons; there is an average of something like 70 or 80 tons altogether. By working both sides, discharging on one side and loading on the other, they can do their work much quicker, and they can come when they like and go when they like; whereas if they were compelled to go to the jetties they would be tied down to moving in at certain tides and moving out at certain tides, and in place of the 12 or 18 or at most 24 hours in which they now finish and are able to leave, they would in all probability be detained two or three or perhaps four days. I think, therefore, that it should not be proposed to bind the Port Commissioners of Chittagong to make it compulsory for every steamer to go to the jetties, because I think the effect of this would be to hamper trade and cause unnecessary expense, inconvenience and delay to steamers which do not require to go there."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 21st March, 1903.

CALCUTTA;
The 17th March, 1903.

J. G. MORISON,
Offg. Secretary to the Bengal Council and Assistant Secretary to the Govt. of Bengal, Legislative Department.

B. S. Press—19-3-1910—4349J—200—W. M. D'C.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Council Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 21st March 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble Mr. E. W. COLLIN.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

NEW MEMBER.

The Hon'ble MR. A. EARLE took his seat in Council.

QUESTIONS AND ANSWERS.

EXPENDITURE ON POLICE REFORMS.

The Hon'ble BABU CHATURBHOOJ SAHAY said:—

Will the Government be pleased to state if the whole or any portion of the Rs. 4,00,000 assigned for Police reforms in the current year's Bengal Government Budget has been, or is likely to be, utilised during the present financial year? If so, in what way?

The Hon'ble MR. HARE replied:—

"Only a small sum of less than Rs. 30,000 has been spent out of the allotment of Rs. 4,00,000 and the balance will be made available for the year 1903-1904. It has been considered advisable to await the Report of the Police Commission before incurring any large increase of expenditure on Police reforms."

EXPENDITURE FOR EDUCATIONAL PURPOSES.

The Hon'ble BABU CHATURBHOOJ SAHAY asked:—

How does the Government propose to spend the sum of Rs. 10,00,000 allotted for Educational purposes in the current year's Bengal Government Budget?

The Hon'ble MR. EARLE replied:—

"Out of the special grant of Rs. 10,00,000 allotted in the current year's Budget for Educational purposes, Rs. 9,79,652 have been allotted under the heads shown in the settlement marked A, annexed. As it may not be found possible to spend the whole of the allotted sums within the current year, Rs. 93,450 have been sanctioned, from anticipated savings in this grant, for expenditure under the heads shown in the statement marked B, annexed."

STATEMENT A.

		Recurrent.	Initial.
		Rs.	Rs.
I.	Improvement of Primary Education ..	4,00,000	...
II.	Appointment of additional Sub-Inspectors of Schools	75,600	...
III.	Establishment of Continuation, or Night, Schools, for day labourers ...	10,800	...
IV.	Subsidising Model Primary Schools for Girls	10,780	...
V.	Establishment of Middle English and Middle Vernacular Schools for females	2,200	...
VI.	Grants to Missionaries for Female Education	9,660	...
VII.	Appointment of an additional Inspectress of Girls' Schools	3,000	...
VIII.	Establishment of Training Institutions for Primary School Teachers ...	57,888	80,400
IX.	Establishment of Training Institutions for Female Teachers	15,380	800
X.	Establishment of Training Colleges ...	26,000	...
XI.	Appointment of a Deputy Director of Public Instruction	6,000	...
XII.	Charges for the training of Officers on furlough in Europe in the modern methods of Education ...	2,000	...
XIII.	Charges for Scholarships to be held in Europe for Technical Education ...	4,500	...
XIV.	Charges for working the Sibpur Workshops by electricity	...	70,000
XV.	Equipping the Rajshahi College Laboratory	...	8,617
XVI.	Providing and oil-gas engine for the Civil Engineering College, Sibpur ...	...	4,000
XVII.	Providing a Metallurgical furnace for the Civil Engineering College, Sibpur	...	2,000
XVIII.	Equipping the Laboratory of the Bihar School of Engineering ...	...	10,000
XIX.	Providing increased accommodation for the Ravenshaw College, Cuttack ...	...	10,000
XX.	Providing buildings for Dow Hill Girls' School, Kurseong	...	50,000
XXI.	Providing Foremen's quarters, Civil Engineering College, Sibpur ...	...	15,000
XXII.	Building grant to Brahmo Girls' School (Calcutta)...	...	10,000
XXIII.	Building grant to Queen's Hill Girls' School (Darjeeling)	...	10,000
XXIV.	Increased hostel accommodation for Hindu and Muhammadan students, Civil Engineering College, Sibpur	...	50,227
XXV.	Acquisition of land for the site of the Hooghly Hostel	...	9,800
XXVI.	Grant for the purchase of land for hostels and other buildings for the Bihar School of Engineering ...	...	25,000
		6,23,808	3,55,844
		9,79,652	

[*Babu Chaturbhooj Sahay; Mr. Earle.*]

STATEMENT B.

		Amount. Rs.
1	Provision of rent for the Hooghly College Hindu Hostel ...	700
2.	Purchase of apparatus for the Civil Engineering College, Sibpur	1,700
3.	Installation of oil-gas plant, Rajshahi College ...	1,093
4.	Cost of diversion of a khal in the compound of the Barisal Zilla School	4,265
5.	Cost of construction of the Dufferin Moslem Hostel, Dacca ...	15,000
6.	Ditto of the Khulna Zilla School Hostel ...	4,000
7.	Additional grant for purchase of land for the hostel for the Bihar School of Engineering	5,000
8.	Cost of connection of the Dacca College Science Laboratory with the electric plant set up in the town of Dacca ...	3,925
9.	Additional grant for gas-lights in the Eden Hindu Hostel, Calcutta	1,035
10.	Equipment of the Physical Laboratory, Presidency College	284
11.	Boarding charges, Victoria Boarding School, Kurseong ..	9,000
12.	Cost of improvement of the main drain in the Alipore Reformatory School	780
13.	Construction of book-shelves for the Library of the Patna College	4,240
14.	Establishment and other charges of the new Middle English School for Muhammadans in the northern part of Calcutta	383
15	Provision for quarters for the Civil Hospital Assistant of the Alipore Reformatory School	1,400
16.	Cost of construction of a dispensary in the Alipore Reformatory School	1,650
17.	Purchase of rice for the boys of the Alipore Reformatory School	2,200
18.	Charges for extending the compound of the Madrash, Murshidabad	4,207
19.	Purchase of materials for the construction of a hostel in the Bihar School of Engineering	5,000
20.	Cost of construction of a building for the School of Engineering at Dacca	16,000
21.	Charges for certain additions to, and alterations of, the Madrash, Murshidabad	288
22	Grant for a Muhammadan hostel at Chittagong ...	3,000
23.	Cost of rebuilding the hostel attached to the Purulia Zilla School	500
24.	Providing accommodation for the office of the Inspector of Schools, Bhagalpur Division	7,000
25.	Additional grant for Circle Pandits	800
	Total ...	93,450

AGRICULTURAL BANKS.

The Hon'ble BABU CHATURBHOOJ SAHAY asked:—

What, if any, steps have been taken for the establishment of Agricultural Banks, for which provision has been made in the present year's Budget to the extent of Rs. 15,000?

The Hon'ble Mr. EARLE replied:—

"The provision of Rs. 15,000 in the Budget, referred to by the Hon'ble Member, was intended to meet the pay and allowances, and cost of establishment, of an officer whom it was thought that it might be desirable to depute, during the current year, for the purpose of inspecting and reporting on Agricultural Banks opened in the Province. As a matter of fact, however, no such officer has been deputed for the purpose. Forty-eight Agricultural Banks have been opened up to date, of which 20 are in Government estates, 16 in Wards, estates, and 12 in Private estates. Rupees 6,200 have been advanced for the Banks in the Government estates, Rs. 2,300 for those in the Wards' estates, and Rs. 2,214 for those in the Private estates."

[*Rai Tarini Pershad, Bahadur; Mr. Hare; Mr. Collin.*]

REMOVAL OF SUB-DIVISIONAL OFFICES FROM RAJMAHAL.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Will the Government be pleased to state whether it is its intention to remove the sub-divisional offices from Rajmahal to Sahebganj, in the Sonthal Parganas?

The Hon'ble MR. HARE replied:—

"Government has at present no intention whatever of removing the sub-divisional offices from Rajmahal."

WATER-SUPPLY ALONG DISTRICT BOARD ROADS OF HAZARIBAGH AND RANCHI.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

Will the Government be pleased to inquire from the District Officers of Hazaribagh and Ranchi whether along the District Board roads in those districts the supply of drinking-water is insufficient owing to the existing wells being situated too far from one another?

In view of the fact that only Rs. 1,003 in 1900-1901 and Rs. 1,593 in the year 1901-1902 were spent in the district of Hazaribagh, and Rs. 229 in the year 1900-1901 and Rs. 1,860 in 1901-1902 in the district of Ranchi in the works of water-supply, will the Government be pleased to direct the District Boards of the said districts to give effect, to the extent desirable, to the suggestions of the Government contained in paragraph 27 of its Resolution reviewing the District Board Report for the year 1901-1902 and in paragraph 48 of its Resolution reviewing the District Board Report for the year 1894-1895?

The Hon'ble MR. COLLIN replied:—

"The Lieutenant-Government, who attaches much importance to the matter, has already initiated throughout the province inquiries similar to those suggested by the Hon'ble Member, and steps will be taken to ascertain whether more should be done to improve the water-supply along the District Board roads everywhere, as suggested in the Resolution reviewing the District Board Reports for 1901-1902. Furthermore, Government has recently issued orders with the object of encouraging District Boards to deal with the question of water supply more methodically than they have in the past."

PLAGUE IN BHAGALPUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Has the attention of the Government been drawn to the fact that plague has appeared in Bhagalpur? If so, will the Government be pleased to allot to it such portion of the plague grant as after inquiries from the local authorities it may deem necessary?

The Hon'ble MR. COLLIN replied:—

"Government has been informed that plague has appeared at Bhagalpur. The outbreak happily is, so far, not serious. It is the duty of Municipalities to provide funds for plague prevention, and assistance is given by Government when they are unable to do what is necessary from their own resources. No application for assistance has yet been received from Bhagalpur."

HOUSES OF ILL-FAME IN VICINITY OF EDUCATIONAL INSTITUTIONS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Has the attention of the Government been drawn to the existence of houses of ill-fame in the vicinity of Educational Institutions in the Mufassal, such as Bhagalpur, Bankipore, &c., and to the necessity of their removal? If so, will the Government be pleased to adopt measures to enforce their removal from such quarters?

[*Mr. Hare; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. HARE replied:—

"Government is aware that houses of ill-fame are to be found in the vicinity of Educational Institutions at Bankipore, Bhagalpur, and elsewhere. Local officers do what they can to remove and control them, but the matter is one of great difficulty, and unless the inmates break the law, their removal can hardly be enforced."

THE PROVINCIAL SERVICE.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

Has the attention of the Government been drawn to the amended Article 119 of the Civil Service Regulations, 3rd Edition (reproduced as Article 98 of the 4th Edition), according to which vacancies in privilege leave should be filled up by an officer of the same district, and that in the case of an appointment held ordinarily by a member of the Civil Service or a Commission, where there is no such officer available on the spot, a member of the Provincial Service should be placed in charge of the vacant appointment?

Is it the case that last year, during the absence on privilege leave of Messrs. J. H. E. Garrett, Purna Chandra Mitter, R. C. Hamilton, Baroda Charan Mitter, and W. H. H. Vincent, junior officers were brought from other districts to officiate in their places, although there were many experienced members of the Provincial Service in the districts in which the vacancies occurred?

Is it a fact that, in two of these cases, namely, the absence on privilege leave of Messrs. J. H. E. Garrett and Baroda Charan Mitter, the vacancies were for not more than six weeks, in which case the Government of India specially enjoined that the rule should be observed, and prescribed a return showing the deviations?

Did the Government in any case, after the amendment of Article 119 of the Civil Service Regulations, referred to above, appoint any member of the Provincial Service to officiate in a privilege leave vacancy of an appointment ordinarily held by a member of the Civil Service?

The Hon'ble MR. HARE replied:—

"The Government is aware of the provisions of the Article referred to. It is a fact that junior officers who were not at the time in the station were appointed to officiate for the gentlemen referred to, owing to the impossibility of making any other suitable arrangements. It is also true that the privilege leave of Messrs. Garrett and B. C. Mitter was of not more than six weeks' duration.

With regard to the last sentence of the question, it is the case that Babu Syam Chand Dhur was appointed to officiate as District and Sessions Judge of Dacca in April last in the place of Rai Jogesh Chunder Mitter, Bahadur, on short privilege leave, and Babu Rajendra Coomar Bose has recently been appoilnted to officiate as Additional Judge of Burdwan in the chain of a privilege leave vacancy. Both these appointments are usually held by members of the Civil Service."

DEPUTY MAGISTRATES AND PENSION RULES.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

Is the Government aware that Article 409 of the Civil Service Regulations, 3rd Edition (reproduced as Article 375 of the 4th Edition), which regulates the conditions of qualifying service of Deputy Magistrates now, is likely to cause hardship in the case of those members who were appointed before the re-organisation of the service and the creation of the eighth grade, inasmuch as such officers had sometimes to serve for two or three years, or even longer, as Probationers, Officiating Deputy Magistrates, and sub. *pro tem.* Deputy Magistrates, before confirmation, and in individual cases the period of non-qualifying service, even in the case of officers who pass the Departmental Examinations promptly, was sometimes as long as three years, or more, from the date of appointment as Probationers?

[*Dr. Asutosh Mukhopadhyaya; Mr. Hare; Mr. Inglis.*]

Inasmuch as the difficulty has been considerably removed by the recent re-organisation in the case of officers who have been appointed since, will the Government be pleased to consider the advisability of further amending the rule by which the hardship to the officers who were appointed before the re-organisation may be removed?

The Hon'ble MR. HARE replied:—

"The Hon'ble Member seems to be under some misapprehension as to the facts. Under Article 4 of the Civil Service Regulations, an officer's claim to pension is regulated by the rules in force at the time when he resigns or is discharged by Government. Article 375 therefore applies to all Deputy Magistrates at present in the service of Government, and the hardship complained of by the Hon'ble Member does not exist."

TRANSFER OF CIVIL AND CRIMINAL APPELLATE JURISDICTION OF PALAMAU TO GAYA.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

Has the Government received any memorial relating to the transfer of the Appellate jurisdiction in Civil and Criminal matters within the district of Daltonganj to the District and Sessions Judge, Gaya? If so, what action has been taken thereon?

Will the Government be pleased to consider the advisability of such a transfer on the ground of convenience to litigants?

The Hon'ble MR. HARE replied:—

"A memorial was submitted to Government by one Babu Prakash Chandra Sirkar, praying for the transfer of the Civil and Criminal Appellate jurisdiction in the district of Palamau from the Judicial Commissioner of Chota Nagpur to the District and Sessions Judge, Gaya.

"The proposed transfer is one that could only be made on the strongest grounds of administrative convenience, and on the information before him, the Lieutenant-Governor is not satisfied that a sufficient case for the change has been established."

THE CHITTAGONG PORT COMMISSIONERS' (AMENDMENT) BILL, 1903.

The Hon'ble MR. INGLIS presented the Report of the Select Committee on the Bill to amend the Chittagong Port Commissioners' Act, 1887.

The Hon'ble Mr. INGLIS also moved that the Report be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

"Before moving this Resolution, I will, with your permission, offer a few remarks. The Select Committee have accepted the Bill as introduced, subject to one small verbal alteration in clause 3.

"At the last meeting of the Council the Hon'ble Dr. Asutosh Mukhopadhyaya suggested that the Committee should give a definition to the words 'sea-going vessel.' The Committee considered this point, but it seemed that the words hardly require definition. A 'sea-going vessel' is one which goes to sea, and it seems difficult to carry the definition further. It does not appear likely that any question will arise as to whether a particular vessel or a class of vessels should be held to be sea-going or otherwise. Should, however, such a thing occur, it may be dealt with under the provisions of section 44 of the Act. I would draw the attention of Hon'ble Members of the Council to the provisions of this section under which the Local Government has very wide discretionary power, and can (I quote from the Act) 'grant exemption from the payment of any tolls, charges, dues, or rates leviable under this Act.' It would therefore be a simple matter for Government to pass orders exempting from the proposed due any vessels or class of vessels which may be shown to be only technically 'sea-going.'

"Since the Report of the Select Committee was issued, certain amendments have been suggested by the Hon'ble Rai Tarini Pershad, Bahadur. They are seven in number, and I propose to accept six of them, which will be useful. I shall have to oppose one of the proposed amendments, as I consider that it is contrary to the intention of the Bill.

"The Hon'ble Mr. Gupta will also bring forward an amendment in clause 3 of the Bill, viz., to alter the wording of the latter part of sub-section (*1*) of the proposed section 33A, and this will, I think, be a distinct improvement. It was not to be expected that a measure of this nature, the object of which is to require certain people to pay more than they are doing at present for such advantages as the Port Chittagong offers to their trade, would be received without objection. Representations have been made on behalf of the B. I. S. N. Company that the proposed due will favour the Inland Steamer Companies and the A.-B. Railway in competing for the Calcutta trade by the Chandpur route. I do not think myself that this objection has any great weight, but it is one of the matters that will have to be held in view in determining the actual rates to be charged on different classes of goods. The Agent of the Railway, who is doubtless more interested in the general home trade of the port than in the Calcutta trade, joins Messrs. David & Co., Messrs. Finlay, Muir & Co., and Messrs. Ewing & Co., in urging that the port is still young or rather that its growth is stunted, that it needs to be nursed, and that any extra dues will cause the trade to leave it.

"The matter has long had the consideration of Government, and it is quite plain that the revenues of the port must be increased, unless it is to remain in a chronic state of dependence on the aid the Local Government may be able and willing to give. At the same time it is hoped that the trade will not succumb under the small additional burden which the powers asked for in this Bill enable the Commissioners of the Port to impose. I have therefore, Sir, to ask that the Bill, as reported by the Select Committee, may now be taken into consideration."

The motion was put and agreed to.

Clause 2.

The Hon'ble Rai Tarini Pershad, Bahadur, moved that in line 1 of sub-clause (*b*) of clause 2 of the Bill, as amended by the Select Committee, for the words "a person" the words "another of the Commissioners" be substituted, and that in line 2 thereof for the words "such person" the word "him" be substituted. He said :—

"Section 5 of the Chittagong Port Commissioners' Act, says :—

'5. There shall be nine Commissioners, of whom six shall be appointed by the Local Government, and three shall be elected by such body, bodies or firms engaged in Commerce in the Port as the Local Government may, with the previous sanction of the Governor General in Council, from time to time direct.'

"Having regard to these provisions and having regard particularly to the fact that there is no provision in the Act under which any outsider can be brought in to take the place of the Vice-Chairman, the use of the words 'a person' here will allow an outsider or stranger being appointed, which, I submit, is not desirable. I think that when the Vice-Chairman goes on leave, or is absent temporarily or otherwise, his place ought to be taken by one of the Commissioners, and as section 10 says 'the Local Government shall appoint a Vice-Chairman from amongst the Commissioners,' I submit there ought to be a provision in the Act that when the Vice-Chairman is absent on leave or otherwise, one of the Commissioners should be appointed to take his place. If there be no such provision, I submit that, having regard to the other provisions of the Act which still remain in force, there might be an anomaly under the law which might create difficulty. If among the Commissioners there are people who can be allowed to officiate for the Vice-Chairman, there is no reason why a stranger should be introduced. Besides, these persons who are already Commissioners have experience of the work in all departments, and this is an additional reason why a selection should be made preferably from amongst them. Of course it might be said that as there are only nine Commissioners, and if one of them has to take the place of the Vice Chairman, the

[*Rai Tarini Pershad, Bahadur; Babu Joy Gobind Law; Mr. Inglis; Mr. Gupta; Dr. Asutosh Mukhopadhyaya.*]

others will find difficulty in their duties; but I submit there are provisions under the law, and there might be provisions made, if necessary, for either electing or nominating a Commissioner to take the place of the Chmmissioner who acts as Vice-Chairman. Therefore I submit that it is desirable that the appointment should be made from amongst the Commissioners, and that an outsider should not be taken to fill the place of the Vice-Chairman.

"Having regard to all the facts and circumstances and the constitution of the two Institutions—I mean the Calcutta Port Commissioners and the Chittagong Port Commissioners,—I submit that no analogy should be taken from the Calcutta Port Commissioners' Act. There, no doubt, we have the words 'a person,' but then their constitution is very different, and their Vice-Chairman is appointed by Government, though practically when he is appointed Vice-Chairman he becomes a Port Commissioner. For these reasons, I submit, the amendment ought to be accepted by the Council."

The Hon'ble BABU JOY GOBIND LAW said:—"I regret I am unable to accept the amendment of my hon'ble friend on my right. The Port Commissioners are very frequently, if not always, very busy men, and if the selection were confined to them, it might turn out that none of them were willing to act for the Vice-Chairman. By leaving the wording as it stands in the Bill, the Port Commissioners are not excluded from the appointment, but it only gives a wider discretion to the Local Government."

The Hon'ble Mr. INGLIS said:—"I accept the amendment proposed, for the reason that it seems to me that under section 10 of the Act, as it stands at present, it is necessary that the person appointed should be first a Commissioner. It says: 'The Local Government may, from time to time, appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-Chairman.' I think, therefore, that it follows that it is necessary that a person should be a Commissioner before he is qualified to be appointed Vice-Chairman."

The Hon'ble MR. GUPTA said:—"I think the objection which has been put forward by the Hon'ble Babu Joy Gobind Law may be met in this way. If the Vice-Chairman goes on leave and there is a vacancy, and if the Government is willing to introduce a stranger, they can first appoint him a Commissioner under section 9, and then appoint him Vice-Chairman under section 10. So that this amendment would not preclude the Government, in case of necessity, from putting in an outsider: the only think necessary is that he should be first appointed a Commissioner and then appointed Vice-Chairman. The one may precede the other by even an hour."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"In addition to the reasons already urged in support of the amendment, I would like to submit a further reason, and that is that if you have a stranger as Vice-Chairman, it will be impossible to work the Act.

"The provisions of section 17 of the Act are as follows:—

'17. With the previous sanction of the Local Government, the Commissioners may make rules consistent with this Act and with the Indian Ports Act, 1875, for any of the following purposes:—

(*a*) for regulating, declaring, and defining the wharves, quays, stages, jetties, and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining them;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

[*Dr. Asutosh Mukhopdhyaya; Mr. Apcar; Rai Tarini Pershad, Bahadur; Mr. Inglis.*]

(*g*) for otherwise carrying out the purposes of this Act;
and may from time to time, with the like sanction, repeal or alter such rules.

'Such rules when sanctioned shall be published in such manner as the Local Government may direct, and shall thereupon have the force of law.'

"These rules have to be made by the Commissioners, and if the Vice-Chairman is not a Commissioner he can take no part in the framing of these rules. It seems to me quite clear that section 10 contemplates that the Chairman and Vice-Chairman should be Port Commissioners, and that rule ought to hold good even when an officiating appointment is made."

The Hon'ble MR. APCAR said:—"I regret I must oppose the motion. I agree with the remarks which have been made by the Hon'ble Babu Joy Gobind Law. The effect of the wording, as it stands in the Bill, is to leave it to the discretion of the Commissioners to appoint a person who will, in their opinion, carry on the duties satisfactorily. It does not say that they shall not appoint one of the Commissioners; they are quite at liberty to appoint one of themselves as Vice-Chairman. I think it would be a mistake to limit them to a choice among themselves. The use of the words 'a person' leaves them greater discretion, and they would, no doubt, wherever possible, always appoint one of themselves before any outsider."

The Motion was then put and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that in sub-clause (*2*) of the same clause, for the word "person" the word "Commissioner" be substituted. He said:—

"I need hardly say anything in connection with this amendment, which follows as a necessary consequence of the other."

The Motion was put and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that the following be added as sub-clause (*3*) to the same clause, namely:—

'(*3*) A temporary vacancy in the office of a Commissioner occasioned by the absence on leave of the Vice-Chairman shall, if and when necessary, be filled up by election or appointment in the manner hereinbefore provided in section 9.'

He said:—"Section 9 has reference to the election when necessary when, for instance, the Vice-Chairman takes leave for six or eight or ten months, and when one of the Commissioners has to take his place, then that Commissioner's place has to be filled up by somebody. Therefore it is desirable that there should be a distinct provision in this Act to the effect that such temporary vacancy might be filled up by election or nomination as specified in section 9. That of course is necessary; but I want to put in the words 'if and when necessary,' simply because there might be instances in which it would not be necessary at all to make any appointment, as for instance when the Vice-Chairman takes leave for say three weeks, in which case it may not be necessary to make any appointment. Therefore, this is a matter which ought to be left to depend upon the circumstances in each particular case; and it is for this reason that I propose to use the words 'if and when necessary.' This amendment also depends upon the amendment which has already been carried."

The Hon'ble MR. INGLIS said:—"I accept this amendment."

The Hon'ble Dr. ASUTOSH MUKHOPADHYAYA said:—"I wish to point out to my hon'ble and learned friend who has moved this amendment that its acceptance will lead to difficulties which he does not foresee.

"You will observe that section 9 of the Act says:—

'9. Any casual vacancy in the office of a Commissioner occasioned by the death, r gnation, or disqualification of such Commissioner shall be filled up within one month by the Local Government, if the office vacated was that of a Commissioner appointed by the Local Government, or

[*Dr. Asutosh Mukhopadhyaya; Rai Tarini Pershad, Bahadur; Mr. Gupta.*]

by the body, bodies or firms for the time being invested by the Local Government with the power of electing Commissioners under this Act, if it was that of an elected Commissioner, in the same manner and subject, as far as may be, to the same provisions as are applicable in the case of original appointments and elections of Commissioners:

Provided that the Commissioner so appointed or elected shall retain his office so long only as the vacating Commissioner would have retained it if such vacancy had not occurred.'

"Section 7 is as follows:—

'7. Every Commissioner shall, unless he becomes in the meantime disqualified under section eight, hold office for a term of two years; and any person on ceasing to be a Commissioner may, unless he has become disqualified under section eight, be re-appointed or re-elected.

'The Local Government may at any time accept the resignation of any Commissioner.'

"Then section 8 says:—

'8. No person shall be qualified to be a Commissioner during such time as he—

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place of profit under the Commissioners, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Commissioners, or in any contract or employment with, by, or on behalf of, the Commissioners;

and any Commissioner who—

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) is absent from the meetings of the Commissioners for a period exceeding twelve consecutive months, or without the permission of the Commissioners from six consecutive meetings of the Commissioners, or

(*f*) is sentenced to imprisonment,

shall cease to be a Commissioner and his office shall thereupon become vacant:

Provided always that no Commissioner shall vacate his office by reason only of his—

(*g*) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Commissioners, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commissioners may be inserted, or

(*i*) being interested in any loan of money to the Commissioners.'

"Suppose a person has been appointed Commissioner for two years, and he is appointed Vice-Chairman, and after he has been in office for three months he asks for leave of absence for three months. My hon'ble and learned friend suggests that the Local Government, if he is a nominated Commissioner, or the body who have elected him if he is an elected Commissioner, should have power to fill up the vacancy. He assumes that there is a vacancy, but there is no vacancy because before there can be a vacancy the Commissioner must be absent without notice for a certain period. Suppose you appoint a successor; then under section 9 that successor will be entitled to remain in office for the remaining term of his office; that is to say, although there is a vacancy for only three months, the Commissioner appointed to succeed him will be entitled to remain for the remaining 21 months. He will say: 'I was appointed to fill the vacancy, and I am entitled to remain till the end of the term.' If this amendment is carried, it will be necessary to put in a proviso to the following effect: 'Provided that the person so elected or appointed shall vacate his office upon the expiry of the leave of absence granted to the Vice-Chairman.' I hope my hon'ble and learned friend who has moved this amendment and the Hon'ble Member in charge of the Bill will consider this suggestion."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, in reply said:—"Having heard my hon'ble and learned friend, I am prepared to accept the proviso proposed; of course my amendment remains, subject to this proviso."

The Hon'ble MR. GUPTA said:—"I submit that the proviso suggested by the Hon'ble Dr. Asutosh Mukhopadhyaya is not necessary, because it is already implied in the words of the amendment proposed. It runs thus: 'A temporary vacancy in the office of a Commissioner, occasioned by the absence on leave of the Vice-Chairman shall, if and when necessary, be filled up by election or appointment in the manner hereinbefore provided in section 9.' It is a temporary vacancy which is to be filled up, so that if the Vice-Chairman has taken leave for three months, the new appointment will be for only three months,

and will naturally terminate at the expiration of three months. I do not think it will be possible to construe the amendment in any way other than the words obviously imply."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I do not know whether the Hon'ble Member has considered the proviso to section 9, which is as follows:—

'Provided that the Commissioner so appointed or elected shall retain his office so long only as the vacating Commissioner would have retained it if such vacancy had not occurred.'

"If there is a vacancy, say, for even three months, as soon as there is a vacancy and a Commissioner is appointed, he retains his office for the remainder of the term of the original Commissioner; and if the original Commissioner was appointed for two years, and only six months have run out, when he comes back the man who succeeded him may say: 'I shall remain in office for the remaining 18 months.' It is with a view to avoid any such possible difficulty that I put forward this proviso."

The Hon'ble MR. GUPTA said:—"I still see no reason to modify my opinion, and for this reason that the appointment, by its terms, will be for the period of vacancy only, say three months. The two sections must be read together. This new section that we propose to put in will restrict and modify the other section. If there is a general provision, which in the same Act is varied by a special provision, the general provision must be read as restricted by the special provision."

The Hon'ble the PRESIDENT said:—"I shall first put the amendment to the Council, and after that submit the proviso."

The Motion that the following clause be added as sub-clause (*3*) to clause 2 of the Bill was then put and agree to:—

'(*3*) A temporary vacancy in the office of a Commissioner occasioned by the absence on leave of the Vice-Chairman shall, if and when necessary, be filled up by election or appointment in the manner hereinbefore provided in section 9.'

The Hon'ble the PRESIDENT said:—"The next motion is that of the Hon'ble Dr. Asutosh Mukhopadhyaya, that to the clause which has just been passed by the Council, the following proviso be added":—

'Provided that the person so elected or appointed shall vacate his office upon the expiry of the leave of absence granted to the Vice-Chairman.'

The Motion being put, the Council divided:—

Ayes 9.	*Noes 8.*
The Hon'ble Mr. Greer.	The Hon'ble Mr. Buckland.
The Hon'ble Mr. Inglis.	The Hon'ble Mr. Gupta.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Hare.
The Hon'ble Maharaja Manindra Chandra Nandy, of Cossimbazar.	The Hon'ble Mr. Collin.
The Hon'ble Mr. Elworthy.	The Hon'ble Mr. Earle.
The Hon'ble Mr. Apcar.	The Hon'ble Maulvi Syed Mahomed, Khan Bahadur.
The Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur.	The Hon'ble Babu Chaturbhooj Sahay.
The Hon'ble Rai Tarini Pershad, Bahadur.	The Hon'ble Babu Joy Gobind Law.
The Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca.	

So the Motion was carried.

Clause 3.

The Hon'ble MR. GUPTA moved that in sub-clause (*1*) of clause 3 [33A] for the words "imported into or exported from the port in sea-going vessels" the words "landed from or shipped into any sea-going vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or

[*Mr. Gupta.*]

shipped at any wharf, quay, stage, jetty or pier belonging to the Commissioners," be substituted. He said :—

"I have only a few words to say in explanation of this amendment. Sub-clause (*1*) of clause 3 says :—

'The Commissioners may, with the previous sanction of the Local Government, by notification, impose a river due on all goods imported into or exported from the port in sea-going vessels,'

that is to say, it is intended to impose this river due on all goods imported into or exported from the port in sea-going vessels.

"Under a reasonable construction of these words I presume no goods should be made liable to be due unless they were imported or exported in sea-going vessels lying in or entering within the limits of the port; but it is possible to put a different construction on the words and to contend that all goods which are conveyed by country boats from the interior of the district and pass through the limits of the port to ships lying outside the limits of the port, or goods conveyed through the limits of the port from ships outside to the interior of the district, may also be subject to the river due. This question was raised in Select Committee by the Hon'ble Maulvi Seraj-ul-Islam, who represents that division, and had received some instructions from the People's Association there. In the absence of any definite information as to the condition under which goods are exported from or imported into Chittagong, and in the absence of any definite suggestion as to the insertion of these words in the Bill, the Select Committee was then not in a position to adopt any amendment. Since then I have, on examining the Calcutta Port Act, noticed that there is a due exactly corresponding with the river due which this Bill proposes to impose in Chittagong, and the language of the Calcutta Port Act, section 108, is as follows :—

'108. If, on the preparation of the estimate of any year, it shall appear that the estimated income of the Commissioners for such year, after deducting therefrom the estimated expenditure of such year to be incurred under this Act will be insufficient for the payment of the sums which, under the provisions of this Act, will be payble during such year to the Secretary of State for India in Council and to the holders of debentures under this Act or any enactment hereby repealed; or if, at any time in the course of a year, it may appear that the actual income of such portion of the year as may have then elapsed and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be so insufficient, then and in every such case the Commissioners shall, upon the requisition of the Local Government, from time to time and to the extent requisite in every case, charge upon all goods landed from or shipped into any vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners, such tolls, dues, rates and charges in addition to, or other than, those, prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of sections one hundred and three to one hundred and seven (both inclusive) as will, when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full.'

"The language of this section makes it perfectly clear that in order to make goods liable to this special due, the vessels by which they are exported or imported must lie or be within the limits of the Port. I think that as the langauge of the Calcutta Port Act makes the meaning of the section perfectly clear, and is not open to any objection, we may safely adopt it also for the Chittagong Port. It would not be possible for vessels to evade this due by anchoring outside the port limits, because, if this is habitually done, there is a section in the Chittagong Port Act by which the limits of the Port could always be extended. Section 3 of Act IV of 1887 says:—

'The Local Government may by notification define the limits of the port for the purposes of this Act, and may from time to time, by a like notification, alter such limits.

'Such limits may extend to any part of the navigable approaches to Chittagong, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for the convenience of traffic, for the safety of vessels, or for the improvement, maintenance, and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

[*Mr. Gupta ; Maulvi Seraj-ul-Islam, Khan Bahadur ; Mr. Inglis ; Rai Tarini Pershad, Bahadur.*]

"It is one thing to charge this river due on ships which enter the Port in which facilities and benefits are afforded by the Port Commissioners, and another thing to levy it on all goods which are exported or imported by vessels which do not enter the Port at all, and as the amendment which I propose does not alter the scope of the proposed Bill, but simply seems to make the meaning of the section clear, namely, that country boat laden with goods or merchandise, and simply passing through the Port, shall not be subject to the due, I trust that the Council will agree with me in thinking that the language of the Calcutta Port Act is a safe guide, and that we may adopt it in preference to the words of the Bill as it now stands, which might possibly lead to disputes and difficulty."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said :—"I beg to support the amendment proposed by the Hon'ble Mr Gupta, which, if carried, will make the point clear and remove the apprehension that country boats, by merely passing through the limits of the Port, will be liable to pay this river due. This is a piece of legislation undertaken for the benefit of the Port Commissioners, and care should be taken to guard against their taking undue advantage of this power to levy extra dues."

The Hon'ble Mr. INGLIS said :—"I accept the amendment of the Hon'ble Member. The wording of the Calcutta Port Act is quite clear and may, I think, be safely adopted."

The Motion was then put and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that in sub-clause (*1*) of clause 3 (33A) after the words "all goods" the words "or any particular goods or class of goods" be inserted. He said:—

"I will endeavour to make the position clear as far as I can. We know very well the object of the present legislation, which has been clearly pointed out in the Statement of Objects and Reasons. There has been a great falling off in the income of the Port Commissioners. There has been a great deficit, owing to which it has been necessary to legislate in this connection. But there may be circumstances later on when the Port may be in a flourishing condition: there may be surpluses, and the necessity which now leads us to legislate may altogether vanish; and therefore, if we were to say after the words 'all goods' 'or any particular goods or class of goods,' that is to say, if we give these Commissioners a charge on all goods or any particular class of goods, as the case may be, they may in fact later on, when they find that it is not necessary to levy a charge on all kinds of goods, desist from doing so. I would draw the attention of the Council to sections 108 and 109 of the Calcutta Port Act, 1890. They run as follows:—

'108. If, on the preparation of the estimate of any year, it shall appear that the estimated income of the Commissioners for such year, after deducting therefrom the estimated expenditure of such year to be incurred under this Act, will be insufficient for the payment of the sums which, under the provisions of this Act, will be payable during such year to the Secretary of State for India and Council, and to the holders of debentures under this Act or any enactment hereby repealed; or if, at any time in the course of year, it may appear that the actual income of such portion of the year as may have then elapsed and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be so insufficient, then and in every such case the Commissioners shall, upon the requisition of the Local Government, from time to time and to the extent requisite in every case, charge upon all goods landed from or shipped into any vessel lying or being within the limits of the por., whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners, such tolls, dues, rates and charges in addition to, or other than, those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of sections one hundred and three to one hundred and seven (both inclusive) as will, when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full.

[*Rai Tarini Pershad, Bahadur; Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Inglis; Dr. Asutosh Mukhopadhyaya.*]

'109. Such tolls, dues rates and charges shall be fixed and adopted in accordance with a resolution passed by the Commissioners at a meeting, and shall be submitted to the Local Government; and if the same shall be approved by it shall be published in the *Calcutta Gazette*, and shall forthwith come into operation and remain in operation until altered or revoked by the Commissioners in meeting, with the sanction of the Local Government; and shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under the Act'

"Here we have a provision to the effect that the Commissioners may levy charges on all goods. Later on we find in 1895 the Government desired to to make an alteration in the law, and by section 9 of Bengal Act IV of 1895 they modified the section. The reason for this alteration was this: when the Calcutta Port was in a flourishing condition, and when the necessity for additional charges ceased, the Legislature was obliged, having regard to the reasonableness and fairness of the thing, to make the alteration. I thereupon humbly submit, for the consideration of the Council, that we should add a similar provision in this Bill to answer the purposes for which this Act IV of 1895 was afterwards passed. Of course there may be a very good object in putting the words 'all goods' and omitting the words 'or any particular goods or class of goods,' but what I submit is, that we must look also to the circumstances which may possibly arise later on; and if we have before us a sufficient safeguard against arbitrary exercise of this discretion by the Commissioners, I do not see any reason why this provision should not be made here. Bye laws are no law, rules are no rules, and schedules are no schedules, unless they are sanctioned by the Local Government; so here we have the guardian angel and sufficient safeguard against all arbitrary exercise of discretion by the Commissioners. I see no harm whatever in this amendment being accepted."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—"I am sorry I have to oppose this amendment. If this amendment is carried, the effect will be that the Commissioners will be empowered to levy dues upon any particular class of goods they please and exempt any others they please. I may remind the Council that the Port Commissioners, in their correspondence, petitioned the Government to exempt tea from the payment of river dues. I find from a reference to the correspondence that both the Government of Bengal and the Government of India overruled that prayer, the Government of India seeing no reason for specially exempting tea from the proposed river dues. From this fact, I think, it may be taken for granted that if this power is given to the Port Commissioners, I am afraid they may exercise it arbitrarily. I submit that we ought not to give them this power."

The Hon'ble MR. INGLIS said:—"I am unable to accept this amendment. The intention of the Bill is that if a due is to be levied at all by the Port Commissioners, it must be levied upon all classes of goods. That was specially insisted upon by the Government of India. It was it first proposed to charge either on all goods or on certain goods, but the Government of India objected to that proposal, and the Bill has been worded so that the Port Commissioners shall not have power to levy dues on certain goods only. They will have the power, however, of varying the due from between one anna to four annas a ton on a special class of goods. There will still remain power with the Local Government under section 44 of the Act, in the special cases, to exempt certain goods, but it is not intended that the Port Commissioners should have the discretion of omitting any class of goods from the dues. I therefore oppose the amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I hope I may say without impropriety that the opposition to this amendment takes me by surprise. According to the Bill as it now stands, if the Commissioners impose a river due, it must be a due in respect of all goods, and the rate must also be one uniform rate. I will read the section. It says: 'The Commissioners may, with the previous sanction of the Local Government,

by notification, impose a river due on all goods imported or exported into or from the port in sea-gong vessels, and the rate of the said due shall not exceed four annas, nor be less than one anna, for each ton of goods.' So that if they impose a rate, it must be upon all goods, and it must be the same rate, varying from four annas to one anna in respect of all goods. The amendment suggests that the Port Commissioners should have discretion in the matter, and that if the river due be imposed, it need not necessarily be upon all goods, but it may be, as my hon'ble and learned friend purposes, upon 'any particular goods or class of goods.' It is said that if you do that you vest the Commissioners with the exercise of discretion in the matter, and that their past conduct has shown that they are not to be trusted. I have not the pleasure of knowing the Commissioners of Chittagong, but I know very well that before the Commissioners can exercise the power, they must previously obtain the sanction of the Local Government; and if the Commissioners cannot be trusted, I hope the Local Government may be trusted. But it is worse than that. If you look at sub-clause (*3*) of section 3 you will find words similar to these very words to which objection is taken : 'Subject to the limits enacted by the foregoing sub-section, the Commissioners may, with the previous sanction of the Local Government, at any time, or from time to time, by notification, raise or reduce the rate to be imposed, whether generally or on any particular goods, or class of goods.' That is to say, in order to get round section 33A you have only to impose a river due upon all goods and then the next day to say that under sub-section (*3*) you reduce the river due upon, say, tea. It seems to me absolutely unreasonable to say that if you have power to raise the rates or reduce the rates to be imposed upon any particular goods, or class of goods, you have not the same power in the beginning. At least I do not see where the harm comes in. If the words suggested are put in, the Port Commissioners will have the power, with the previous sanction of the Government, to have the rate reduced in respect of different goods. Of course it is quite conceivable that the Local Government may say that the river due must be imposed upon all goods, and if the Government says that there is an end of the matter, and the Commissioners will not be entitled to have any goods exempted. But it may be very advantageous that the rate should be different in respect of different goods—you may have one rate for one class of goods and a different rate for a different class. At any rate, when the previous sanction of the Government has to be taken, I do not see why the words may not be safely put in."

The Hon'ble MR. INGLIS said :—"I should just like to explain one point with reference to what the Hon'ble Dr. Asutosh Mukhopadhyaya has said that it would be within the discretion of the Commissioners, under sub-section (*3*), to reduce the rate on a particular article to zero. That, I think, is not quite the power they would have. Sub-section (*3*) says : 'Subject to the limits enacted by the foregoing sub-section, the Commissioners may, with the previous sanction of the Local Government, at any time or from time to time, by notification, raise or reduce the rate to be imposed, whether generally or on any particular goods or class of goods.' The Commissioners will only be able to propose that the rate of the said due shall not exceed four annas nor be less than one anna. I take it, then, that the powers of Commissioners will be limited to varying the rate on all goods to as low as one anna or as high as four annas. They will not have the power of taking off the rate altogether. It is the object of the Bill that they should not have power to remove the rate, but they may have power to suggest to the Local Government that the rate may be as low as one anna."

The Motion was then put and lost.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that the following be added as sub-clause (*4*) to the same clause, namely :—

'(*4*) Such river due as may be imposed under this section shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under this Act.'

[*Rai Tarini Pershad, Bahadur; Dr. Asutosh Mukhopadhyaya; Mr. Gupta; the President.*]

He said:—"I submit that this addition is necessary, for the reason that the toll which we are now authorising the Chittagong Port Commissioners to levy is a special toll. I would call the attention of the Council to sections 108 and 109 of the Calcutta Port Act, III of 1890. From this it will be seen that when the additional toll was to be levied provision was made that such special toll shall be recovered and realised in the same manner as other charges recoverable under the Act. That being so, it becomes necessary for us to make a similar provision in this Bill because this toll did not exist before; it does not exist up till now, and it will only come into existence after the present legislation. Therefore it cannot be said that there is any provision for its realisation in the Chittagong Ports Act of 1887. Nor is there any general provision in that Act which would apply to tolls and charges leviable afterwards. Of course there is no suggestion at all in this Bill to the effect that this Act shall be read and taken as part of the Act of 1887, so that it cannot be said that what is already in the Act will equally serve the purpose, so far as the realisation of the river due now to be levied is concerned. Therefore it is desirable that there should be a distinct provision to the effect that such tolls as will now be levied shall be recovered in the same way as other charges are recovered at present under the Act. I submit therefore that the amendment I have moved should be accepted by the Council."

The Hon'ble Dr. Asutosh Mukhopadhyaya said:—"I am unable to support the amendment and for the reason, that it is wholly unnecessary. Clause 3 of the Bill says that 'after section 33 of the said Act the following shall be inserted,' namely, the new section 33A:—

"Therefore as soon as the Bill now before the Council becomes law we have the new section,—section 33A in the Chittagong Port Commissioners' Act. On looking at section 33, I find that if tolls, rates and charges payable to the Commissioners in respect of any goods are not paid they may be recovered in a certain way. Section 33A now becomes part of the Act and the river due described therein becomes payable to the Commissioners in respect of any goods under the Act, and therefore I submit section 38 will *ipso facto* apply and consequently the amendment proposed by my hon'ble and learned friend is wholly unnecessary."

The Hon'ble Mr. Gupta said:—"I agree with the Hon'ble Dr. Asutosh Mukhopadhyaya in thinking that this amendment is unnecessary, as the provisions of section 38 would apply to this new toll, because this section 33A becomes part of the Act, and the river due will be as much leviable under the Act as any other rate or charge now leviable, and the same procedure would consequently apply."

The Hon'ble Rai Tarini Pershad, Bahadur, in reply said:—"I see the position taken by my hon'ble and learned friends, but I still maintain my opinion that there ought to be a distinct provision which will leave no doubt at all in the mind of anybody. As regards the matter I am now contending for, Your Honour will find that in Bengal Act IV of 1895 there is a distinct provision to this effect. Notwithstanding the remarks of the two Hon'ble Members who have opposed my amendment, I do not see my way to withdraw it."

The Hon'ble the President said:—"I do not think the Council will share the apprehension of the hon'ble mover, since it is well-known fact that as soon as an amending Bill is passed, the portion engrafted into it becomes part of the original Act, the general provisions of which will apply equally to the later and to the original portions of the Act. In this particular case I would remind the Hon'ble Member that clause 3 of the Bill says that 'after section 33 of the said Act the following shall be added.' Then comes the new section 33A, empowering the Commissioners to impose a river due. There can, I think, be no doubt that the new clause becomes part of the original Act, and is incorporated in it."

The Motion was then put and lost.

[*Rai Tarini Pershad, Bahadur; Mr. Inglis.*]

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that in clause 3 [33B] after the word "languages" the words "and characters" be inserted. He said:—

"This is merely a verbal amendment, but I would call the attention of the Council to section 33 of this very Act and also the corresponding section, section 128 of the Calcutta Port Act, in which we find the words 'and characters' are used. To use in one place the words 'language and characters,' and in another place simply 'language' might create some ambiguity. I therefore think it desirable that the words 'and characters' should be inserted. I do not think the Council will find any difficulty in accepting the amendment which, as I have said already, is only a verbal one."

The Hon'ble MR. INGLIS said:—"I accept the Hon'ble Member's amendment."

The Motion was put and agreed to.

Clause 4.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that in sub-clause (*a*) of clause 4, for the word "prepared" the word "sanctioned" be substituted. He said:—

"If the word 'sanctioned' is used, it will cover both 'preparation' as well as 'sanction.' This also is a verbal amendment, which I hope will be accepted by the Council."

The Hon'ble MR. INGLIS said:—"I accept the Hon'ble Member's amendment."

The Motion was put and agreed to.

The Hon'ble MR. INGLIS then moved that the Bill, as settled in Council, be passed. He said:—

"I do not think there is any occasion for me to add to the remarks I have already made as to the nature of the Bill."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 28th March, 1903.

CALCUTTA;
The 18th April, 1903.

F. G. WIGLEY,
Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

B. S. Press—3-11-1903—13637—50—C. O. G.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 28th March, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble Mr. C. E. BUCKLAND, C.I.E.

The Hon'ble Mr. B. L. GUPTA.

The Hon'ble Mr. L. HARE, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

QUESTION AND ANSWER.

THE PROVINCIAL EDUCATIONAL SERVICE

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked:—

Will the Government be pleased to inform the Council whether any action has been, or is likely to be, taken towards the improvement of the prospects of the Officers of the Provincial Educational Service in view of the hope held out by the late Sir Alexander Mackenzie contained in the following Extract from paragraph 20 of Government Resolution No. 1244, dated the 26th March, 1897 (General Department—Education):—?

"His Honour observes that owing to the narrowness of the scale of the Provincial Service, as compared with existing salaries, the prospects of officers in the lower classes are very discouraging . . . He also observes that the Provincial Service of other Provinces are practically devoid of Class VIII on Rs. 150. Sir Alexander Mackenzie regrets this state of things, and, with a view to improving the prospects of Provincial Service Officers, he proposes at an early date to consider whether something may not be done by assigning a greater number of appointments to some of the intermediate classes."

The Hon'ble MR. EARLE replied:—

"The late Sir Alexander Mackenzie, shortly after recording, in the Resolution referred to by the Hon'ble Member, his views on the prospects of Officers in the lower classes of the Provincial Educational Service, submitted to the Government of India certain proposals for the improvement of that Service. Those proposals, however, were not favourably entertained by the Government of India.

"The matter has lately come up again, and the question whether it is practicable to improve the prospects of the Provincial and Subordinate Educational Services is at the present time under the consideration of the Lieutenant-Governor."

THE BENGAL FINANCIAL STATEMENT FOR 1903-1904.

The Hon'ble MR. COLLIN, in laying on the table the Bengal Financial Statement for 1903-1904, with explanatory notes, said:—

"I will, with the permission of the Council, give the following brief account of the position. I will first deal with the year which is closing. It has been financially prosperous. The revenue which was estimated at Rs. 5,10,10,000 is now estimated at Rs. 5,23,65,000, showing an increase of about 13½ lakhs. There has been an increase of revenue from Stamps (2½ lakhs) and from Excise (4 lakhs). The Sone Canals were utilized on a larger scale than before for irrigating the *rabi* crops of last year, with the result that an increased income of about 3¼ lakhs has been obtained. Land Revenue and Assessed Taxes each have brought in an increase of about a lakh, and the Miscellaneous receipts increased to the same extent, owing mainly to the lapse to Government of unclaimed deposits. The only important decrease of revenue was in connection with the Port of Calcutta, where Pilotage receipts fell off by Rs 1,33,000.

"The estimate for expenditure during the year 1902-1903 was Rs. 5,37,18,000, but we have only been able to spend Rs. 5,16,28,000, or a net decrease of Rs. 20,90,000. Large sums were allotted in the estimates for Police and for Education reforms. As to the former, it was decided to await the result of the enquiries by the Police Commission before incurring any

[*Mr. Collin.*]

expenditure. The provision of four lakhs therefore which had been made for this purpose was not utilised. As regards Education, the Department was called upon to expend an increased grant of ten lakhs, given from Imperial Revenues, which involved recurring expenditure and expenditure on buildings. It was impossible to work out the necessary schemes at once, and there have therefore been savings of over four lakhs on this account. Much was done for the furtherance of Primary Education by grants to District Boards, and the expenditure of practically the whole grant was arranged for during the year and the necessary funds allotted. The release of prisoners on the occasion of His Majesty's Coronation gave a saving of about two and a-half lakhs, under the head of Jails, and the milder outbreak of plague last year and the abandonment of plague camps and inspection stations reduced expenditure in the Medical Department by over four lakhs. There was a decrease of expenditure in connection with Surveys and Settlements, but this did not lead to any great reduction of the Survey programme. A considerable sum was provided for the appointment of an Additional Judge and other officers in the High Court, but it was not all spent, as the appointments were made late in the year.

"The cash balance at the end of the year will, according to the revised estimate, be Rs. 56,43,000. This includes a special grant of two lakhs from the Imperial Government for the construction of a new Surgical Ward in the Medical College Hospital. We are entitled to carry this balance forward and to spend during the next financial year all but Rs. 20,00,000, which must be retained as a permanent balance.

"The budget estimate for 1903-1904 provides for a revenue of Rs. 5,16,25,000, or an increase of Rs. 6,15,000 over the estimate of the year which is now closing. The increase is due to the progressive growth of the Stamp and Excise Revenues, which are expected to produce more than in the current year by 3 lakhs and 5½ lakhs, respectively. The Registration and Irrigation Departments will also give an increase of revenue, but we do not expect the large receipts from the latter Department that were actually obtained in 1902. On the other hand we cannot take credit for a grant of 6 lakhs, as in the budget of the current year, from the Government of India. A grant of 2 lakhs has been made as explained above, but it is included in the opening balance. The amount available for expenditure in 1903-1904 is Rs. 5,72,68,000, or 15½ lakhs more than in the current year. The method of disposing of this additional amount is shown in paragraph 6 of the statement which is in the hands of the Hon'ble Members.

"The programme of expenditure includes the re-organisation of two important departments of the Public Service, viz., that of the Judicial Branch of the Provincial Civil Service, and of the Executive Branch represented by Sub-Deputy Collectors. The re-organisation of the former, which includes the re-grading of Munsifs, has already been sanctioned and given effect to during the current year, though not from the commencement of the year. Full provision has been made in the budget for next year. The re-organisation of Sub-Deputy Collectors has not yet been finally sanctioned.

"The budget provides also for additions of establishment in the Calcutta and the Railway Police Forces. In addition to the items of expenditure shown in paragraph 6 of the Financial Statement, we have provided for all the administrative and other requirements of Government on the same scale as for the year which is closing. A sum of four lakhs is reserved for general Police reforms which, it is hoped, we shall be able to carry out before the end of the year.

"Funds are provided for carrying on the Educational improvement inaugurated in the current year.

"The special grant of five lakhs made during the last two years to District Boards for improvements of district communications is to be repeated, and further help is to be given for the construction of feeder roads to railways.

"An effort is to be made to clear the old navigation channels in the east of the Province, and ample provision has been made for the construction of

[*Mr. Collin.*]

buildings and offices by the Public Works Department to enable them to overtake the arrears of work left by the reduction of such expenditure owing to famine and plague in the earlier years of the present contract. A list of the principal original Public Works, for which Rs. 29,58,000 is provided, is given in paragraph 49 of the Settlement.

"The Financial Statement will come up for discussion on the 4th of April, and my Colleagues and I shall in the meantime be happy to give to Hon'ble Members any information which they may require. We shall also be obliged if Hon'ble Members will extend to us the courtesy shown to our predecessors, and will give notice before the next meeting of the Council of any points which they propose to bring forward, so that we may be prepared with the necessary explanations."

EXPLANATORY NOTES ON THE BENGAL FINANCIAL STATEMENT FOR 1903-1904.

PART I.—General Review.

THIS is the eleventh occasion on which the Financial Statement for the Province of Bengal has been presented before the Council. On the first and second occasions the system of Provincial finance and the distinctive features of the five financial contracts with the Government of India, covering a period of 26 years, were explained at some length. That period expired on the 31st March 1897, and in the fifth statement the Hon'ble Mr. Risley explained the alterations which were made in the conditions of the expiring contract by the next settlement, which was made for five years commencing from the 1st April 1897. The total assignment made for Bengal at that time was Rs. 4,43,49,000, and the revenue for the year 1897-98, including an opening balance of Rs. 39,54,000, was Rs. 5,05,78,000. For the year 1903-1904, the revenue, added to an opening balance of Rs. 56,43,000, has risen to Rs. 5,72,68,000, including special grants from the Imperial Revenues of Rs. 10,00,000. The greater portion of the increase has been contributed by the progressive growth of the Stamp and Excise Revenue, while there has been a steady improvement of Land Revenue, and of receipts from Provincial rates, Assessed Taxes, Registration and Jails. On the expenditure side there were heavy charges, amounting altogether to over 32 lakhs of rupees, on account of famine in 1897-98, and there was a large expenditure on account of plague in 1899-1901. There has been a considerable increase of administrative charges under the head of Law and Justice, and the charges on account of public works have risen from 32 lakhs to over 58 lakhs. Special grants of five lakhs for communications and of further amounts for feeder roads have been made to District Boards during 1901-1902 and 1902-1903. The settlement made in 1897 has been extended for special reasons for two years, and will expire at the end of the coming financial year.

(1) ACCOUNTS OF 1901-1902.

2. In the revised estimate for 1901-1902, as shown in last year's financial statement, the opening balance was taken at Rs. 42,62,000, the receipts of the year at Rs. 4,93,65,000, the expenditure at Rs. 4,89,19,000, and the balance at Rs. 47,08,000. The actual result proves to have been more favourable. The receipts improved by Rs. 2,03,847, chiefly under Jails (1½ lakhs) and partly under Land Revenue, Forests, and Miscellaneous. The expenditure was greater by Rs. 5,677, and the year closed with a balance of Rs. 49,05,782.

(2) REVISED ESTIMATE, 1902-1903.

3. The budget estimate for 1902-1903 as passed by the Government of India accepted Rs. 47,08,000 as the opening balance, and provided for receipts aggregating Rs. 5,10,10,000 and an expenditure of Rs. 5,37,18,000, so that the year should close with a balance of Rs. 20,00,000. The revised estimate now passed provides for a revenue of Rs. 5,23,65,000 and an expenditure of Rs. 5,16,28,000. The net result is a surplus of Rs. 7,37,000 on the year's receipts against a deficit of Rs. 27,08,000 anticipated last year, giving a total improvement on the original estimate of Rs. 34,45,000. Including the opening balance of Rs. 49,06,000 as stated above, the total receipts were Rs. 5,72,71,000, and deducting the expenditure of Rs. 5,16,28,000, the closing balance is placed at Rs. 56,43,000.

4. On the receipt side the revenue is expected to show an increase of Rs. 13,55,000, of which Rs. 2,25,000 is under Stamps, chiefly from court-fee stamps; Rs. 4,00,000 under Excise, mainly due to better settlements and the general prosperity of the Province; Rs. 1,07,000 under Land Revenue; Rs. 1,00,000 under Assessed Taxes due to increased income-tax assessments;

Rs. 1,17,000 under Miscellaneous, chiefly under Unclaimed Deposits; and Rs. 3,20,000 under Irrigation Major Works due to an unusual extension of irrigation in the Sone Canals for the *rabi* crop of 1902. Against these increases there are decreases of Rs. 45,000 under Jails, Rs. 1,33,000 under Marine caused by a falling off in pilotage receipts in the port of Calcutta, and Rs. 34,000 under Education due to smaller receipts from High and Boarding schools.

5. The net decrease of expenditure is Rs. 20,90,000. Of this, Rs. 3,21,000 occurs under Land Revenue, under several heads such as (*a*) Survey and Settlements owing to a smaller outlay in the Damin-i-koh Government estate in the Sonthal Parganas, and the non-utilisation of the reserve of Rs. 75,000, (*b*) Charges for District Administration due to savings under Salaries owing to leave out of India and changes of officers, and the non-utilisation of the grant for the reorganisation of the Subordinate Executive Service. There was also a saving of Rs. 2,07,000 under Law and Justice—Judicial Courts—due to the fact that the Additional Puisne Judge, Official Referee, and Assistant Official Referee, as well as additional establishments in the High Court, who were provided for in the budget, have not been entertained for the whole year, while there are savings under Criminal Courts, on account of the salaries of officers, a portion of which is debited to this head. There are savings of Rs. 2,43,000 under Jails owing to the release of prisoners on the occasion of His Majesty's Coronation; and of Rs. 5,41,000 under Police, chiefly owing to the non-expenditure of the amount of 4 lakhs provided for reforms, pending the report of the Police Commission, and also to savings in salaries and in the pay of the Police force both in Calcutta and districts. Under Education, there has been an apparent failure to expend Rs. 12,28,000, but as large amounts have been transferred to District Boards and to the Public Works Department for educational works, the total actual savings only amount to Rs. 5,20,000. Among the amounts transferred, Rs. 5,60,000 have been made over to Local Funds chiefly in the shape of additional grants to District Boards for the following purposes:—

	Rs.
For the improvement of primary education ...	3,71,700
„ additional Sub-Inspectors of Schools ...	18,900
„ additional remuneration to teachers in primary schools ...	1,16,170
„ purchase of furniture, &c., in primary schools ...	52,815

Rs. 1,48,000 have been transferred to the Public Works Department from the educational allotment for school buildings. There are also savings under Salaries, and the grants for raising the status of the Dacca Survey School and for starting training colleges at Dacca and Hooghly have not been fully spent. No contribution to the proposed Provident Fund for teachers in primary schools has been made during the year, as the scheme has not been finally sanctioned, but the grant has been utilised as shown above in giving additional remuneration amounting to Rs. 1,16,170 to teachers in primary schools under the control of District Boards. The allotments made both for initial and recurrent expenditure from the special assignment of 10 lakhs sanctioned by the Government of India, have not also been fully spent, and the deferred expenditure is expected to cause a saving of about 4 lakhs under Education in the Provincial account. This is included in the savings of Rs. 5,20,000 mentioned above. There are decreases of expenditure under Medical (Rs. 4,53,000), chiefly in the grant for plague charges and partly under Salaries; under Minor Departments (Rs. 65,000), chiefly caused by the non-utilisation of the provision of Rs. 50,000 for the establishment of a cattle-breeding farm at Pusa, a project which could not be carried out during the year. There were also savings in the grant for Cinchona Plantation and the Veterinary Department; and under Civil Works carried out by the Civil Department the sum of Rs. 88,000, provided for additional burial-grounds, has not been spent. Against these decreases there are increases of Rs. 62,000 under Refunds due to a special adjustment of the amount recovered from the Bettiah estate in previous years on account of survey and settlement work, and of Rs. 4,89,000 under General Administration, partly due to expenditure in connection with the Delhi Coronation Darbar. The accounts of the latter have been practically closed, and the expenditure after

deducting the amounts recovered by sales, or by transfers to other Departments, was Rs. 3,17,130. Of this amount Rs. 91,907 was on account of Railway charges and Rs. 2,917 for Telegraph and Postal charges, which should be taken as a set off against the expenditure.

(3) BUDGET ESTIMATE, 1903-1904.

6. The budget estimate for 1903-1904 as passed by the Government of India adopts Rs. 56,43,000 as the opening balance, and provides for receipts aggregating Rs. 5,16,25,000. Making up a total available of Rs. 5,72,68,000. The expenditure is estimated at Rs. 5,52,68,000, thus leaving closing balance of Rs. 20,00,000. The opening balance has been increased by a grant of two lakhs of rupees made by the Imperial Government in the closing accounts of 1902-1903 for the construction of a Surgical Ward in the Medical College Hospital. Compared with the budget estimate for 1902-1903, the receipts for 1903-1904, excluding the opening balance, show an increase of Rs. 6,15,000, while, as compared with the revised estimate, there is a decrease of Rs. 7,40,000. This increase is due to the improvement of the Stamp Revenue (three lakhs) and of the Excise Revenue (five and-a-half lakhs). There are also increases of half a lakh under registration and of Rs. 75,000 in Miscellaneous and in Irrigation Receipts. There are small decreases in some items of account which do not call for notice. The reduction of receipts, as compared with the revised estimate, is due to the absence of two large items, viz., the special assignments of six lakhs made in 1902-1903 by the Government of India for Civil Works, and of the two lakhs made for the Surgical Ward referred to above. Smaller receipts are also anticipated from Irrigation Major Works. On the expenditure side the total estimated charges for 1903-1904 are Rs. 5,52,68,000, against Rs. 5,37,18,000, the budget estimate for 1902-1903, and Rs. 5,16,28,000, the revised estimate for the year. The increase in the budget of 1903-1904 over the similar figures for 1902-1903 is Rs. 15,50,000, of which Rs. 13,88,000 are for the following purposes:—

	Rs.
Improvement of the status of Sub-Deputy Collectors (the grant being Rs. 1,00,000 against Rs. 30,000 in 1902-1903)	70,000
Local allowances of Deputy Collectors for the Excise Department	5,000
Reorganisation of the Customs Department	20,000
Regrading of Munsifs and additional temporary Sub-Judges (the grant being Rs. 1,05,000 against Rs 76,000 in the budget for 1902-1903) ...	29,000
Reorganisation of the Calcutta Police	50,000
Ditto of the Railway Police	28,000
Increased grant for pilotage allowances	55,000
Construction of a new steamer to replace the *Sarsuti* ...	2,00,000
Installation of electric fans and lights in the Presidency General Hospital	30,000
Revision of the Imperial Gazetteer and the Statistical Account of Bengal (the grant being Rs. 40,000 against Rs. 25,000 in 1902-1903)	15,000
Extension of the Veterinary School and Hospital ...	38,000
Inspector of Mines	13,000
Dredger of the Circular and Eastern Canals ...	5,00,000
Increased grant for Civil Works by Public Works Department	2,85,000
Additional grants to District Boards for feeder roads (Rs. 1,50,000 having been granted in 1902-1903)	50,000
Total ...	13,88,000

The budget is explained more fully in the following paragraphs:—

PART II.—Detailed remarks on the Budget for 1903-1904.

RECEIPTS.

7. *Land Revenue.*—The total collections under this head in 1901-1902 amounted to Rs. 4,08,11,631 and the estimate for 1903-1904 as passed by the

Government of India is Rs. 4,07,17,000, against Rs. 4,10,00,000, the revised estimate for 1902-1903. The estimate for 1903-1904 includes Rs. 1,80,000 for recoveries on account of the Bihar Survey and Settlement charges, against Rs. 4,24,060, the actuals of 1901-1902, and Rs. 3,30,000 provided for in the revised estimate for 1902-1903. About 1½ lakhs are to be recovered in Purnea on account of settlement charges, but they will be credited to another head of the accounts.

8. The adjustments between Imperial and Provincial will probably result in a net transfer of Rs. 3,52,000 to Imperial as shown below:—

	Rs.
Fixed contribution to Imperial Revenues under the Provincial Settlement	14,19,000
Add, payable to Imperial Revenues—	
For transfer of the South Lushai Hills to the Assam Administration	3,75,000
For transfer of Provincial interest in certain sections of the Indian Museum	19,000
For transfer of the Statistical Department of the Bengal Secretariat to the Office of the Director-General of Statistics	15,000
Compensation to the Assam Administration on account of the realisation in Bengal of income-tax from the Assam-Bengal Railway	13,000
Compensation to the Central Provinces Administration on account of the realisation in Bengal of income-tax from the Bengal-Nagpur Railway	16,000
Total ...	18,57,000
Deduct, to be recovered from Imperial Funds—	
Special assignment for resumed chaukidari lands in Orissa...	36,000
Ditto of three-fourths of the sale-proceeds of village cadastral maps	4,000
Contribution for increase of expenditure under Education ...	10,00,000
Assignment for remission of income-tax on incomes below Rs. 1,000	4,65,000
Total ...	15,05,000
Net sum to be transferred to Imperial Funds ...	3,52,000

9. The estimated Provincial share of Land Revenue is arrived at as follows:—

	Estimate, 1903-1904. Rs.
Gross Land Revenue	4,07,17,000
Deduct 12 per cent. on estimated collections from Government estates (Provincial)	6,17,000
Deduct recoveries of Bihar Survey and Settlement charges (Imperial)	1,80,000
Total deduction ...	7,97,000
Net amount divisible between Imperial and Provincial Funds	3,99,20,000
Provincial share of above (one-fourth)	99,80,000
Add 12 per cent. on collections from Government estates ...	6,17,000
Total Provincial ..	1,05,97,000
Deduct on account of adjustments as shown above ..	3,52,000
Total Provincial share ...	1,02,45,000

10. *Stamps.*—The budget estimate of the total revenue from Stamps for 1902-1903 was passed by the Government of India for Rs. 1,92,00,000. The actuals in 1901-1902 amounted to Rs. 1,90,05,559, and the returns from the Comptroller-General show that the receipts during the first ten months of 1902-1903 exceeded those of the corresponding period of the preceding year by Rs. 3,15,000. In view of these figures, the revised estimate for 1902-1903 has been passed for Rs. 1,95,00,000 and the estimate for 1903-1904

has been placed at Rs. 1,96,00,000 with reference to the gradual increase of revenue. The Provincial share is three-fourths of this sum, and amounts to Rs. 1,46,25,000 and Rs. 1,47,00,000, respectively.

11. *Excise.*—The revenue from Excise for 1902-1903 was estimated at Rs. 1,50,00,000. The actuals of 1901-1902 amounted to Rs. 1,50,25,698, and the figures for the first ten months of 1902-1903 show an increase of Rs. 6,63,000 over the actuals of the corresponding period of the preceding year, and the revised estimate for the current year has been adopted at Rs. 1,58,00,000. But looking to the annual increase of revenue under this head, the estimate for next year has been placed at Rs. 1,61,00,000. The Provincial share (one-half) amounts to Rs. 80,50,000.

12. *Provincial Rates.*—The actual collections of the public works cess in 1901-1902 amounted to Rs. 46,65,503, and the receipts in the first nine months of the current year show an increase of Rs. 2,65,000 over those of the corresponding period of last year. The revised estimate for the current year has accordingly been placed at Rs. 48,32,000, and the estimate for next year has been taken at Rs. 48,50,000. An increase is anticipated on the completion of revaluation works in certain districts. Under General Rates for the management of private estates the estimate of receipts is Rs. 1,42,000, and this, added to the estimate for receipts of the public works cesses, makes up the sum of Rs. 49,92,000 which appears in the abstract.

13. *Customs.*—The original estimate of Provincial receipts for 1902-1903 was Rs. 2,60,000 against Rs. 2,64,584, the actuals of 1901-1902. The collections in the first nine months of 1902-1903 showed a decrease of Rs. 24,000 as compared with those of the corresponding period of the previous year, and the revised estimate for 1902-1903 has been placed at Rs. 2,50,000. The estimate for next year has, however, been passed for Rs. 2,60,000, which is the sanctioned estimate for 1902-1903.

14. *Assessed Taxes.*—The budget estimate of receipts from income-tax for 1902-1903 was Rs. 57,00,000. The actual collections of last year amounted to Rs. 56,51,692 and those of the twelve months ending 31st January 1903 were Rs. 58,41,000. The revised estimate for 1902-1903 has been placed at Rs. 59,00,000, and the estimate for 1903-1904 would have been passed for Rs. 60,00,000 with reference to the gradual increase of revenue year by year, but for the remission of tax on incomes below Rs. 1,000 sanctioned by the Government of India. This remission is estimated to cause a loss in Bengal of Rs. 9,30,000, and the estimate has accordingly been placed at Rs. 50,70,000. The Provincial share (one-half) amounts Rs. 25,35,000. The remission, however, is not a loss to Provincial Funds, as it has been recouped by an assignment from the Government of India under Land Revenue.

15. *Forests.*—The total receipts under this head for 1903 1904 are estimated at Rs. 12,00,000 against Rs. 12,50,000, the budget estimate for 1902-1903. The Provincial share is one-half. The decrease is owing to a smaller sale of *sundri* wood in the Sundarbans and to the disforestation of the Singhbhum forests and also to the decreased revenue from *sabai* grass.

16. *Registration.*—The budget estimate under this head for 1902-1903 was Rs. 16,00,000. The actuals in 1901-1902 amounted to Rs. 16,69,663, and the collections of the first nine months of the current year show an increase of Rs. 20,000 over those of the corresponding period of the previous year. The revised estimate for the current year has been placed at Rs. 16,84,000, while the estimate for 1903-1904 has been passed for Rs. 17,00,000. The Provincial share of one-half amounts to Rs. 8,42,000 and Rs. 8,50,000, respectively.

17. *Interest.*—The receipts under this head have been entered at Rs. 3,60,000, thus:—

	Rs.
Interest on advances to cultivators	42,000
" on drainage and embankment advances	64,000
" on loans to landholders	7,000
" on loans to Municipalities and other public Corporations	1,86,000
" on Government securities	14,000
Miscellaneous	47,000
Total ...	3,60,000

18. *Law and Justice—Courts of Law.*—The actuals in 1901-1902 amounted to Rs. 8,01,684, and the estimate for 1903-1904 has been placed at Rs. 8,00,000. The revised estimate for the current year has, however, been passed for Rs. 8,08,000 with reference to the actuals of the first nine months of the year.

19. *Jails.*—The proceeds of Jail manufactures showed a steady increase up to 1900-1901, but received a check in 1901-1902. In view of the actuals of 1901-1902 and those of the first nine months of the current year, the revised estimate has been placed at Rs. 13,70,000, but the estimate for 1903-1904 has been passed for Rs. 14,17,000.

20. *Police.*—The estimate under this head amounts to Rs. 1,84,000 against Rs. 1,92,000, the revised estimate for 1902-1903, and Rs. 1,69,387. the actuals of 1901-1902. In 1902-1903 there were larger recoveries on account of punitive police. .

21. *Marine.*—The budget estimate for 1902-1903 was Rs. 13,33,000. This has been reduced to Rs. 12,00,000 in the revised estimate with reference to the actuals of the first ten months of the current year owing to a falling off under Pilotage receipts in Calcutta. These receipts are of a fluctuating character, depending on the tonnage of vessels arriving and departing from the port, and the estimate for 1903-1904 has been passed for Rs. 12,71,000.

22. *Education.*—The estimate under this head is Rs. 7,28,000 against Rs. 7,12,000, the revised estimate for 1902-1903, and Rs. 7,04,553, the actuals of 1901-1902. The increase is expected mainly from the fees at high schools.

23. *Medical.*—The estimate under this head is Rs. 2,25,000 against Rs. 2,19,000, the sanctioned estimate for 1902-1903, and Rs. 2,07,659, the actuals of 1901-1902. The increase is due to an anticipated increase in the receipts from paying patients in hospitals.

24. *Scientific and other Minor Departments.*—The total receipts for 1903-1904 are estimated at Rs. 2,57,000 against Rs. 2,47,000, the sanctioned estimate for 1902-1903. The increase is under Cinchona Plantation receipts owing to anticipated larger sales of quinine and cinchona alkaloids.

25. *Miscellaneous.*—The receipts under this head fluctuate largely from year to year and it is difficult to forecast them with certainty. The estimate for 1903-1904, based on past actuals, has been placed at Rs. 8,50,000 against Rs. 7,76,000 and Rs. 8,93,000, the budget and revised estimates, respectively, for 1902-1903.

26 *Irrigation Major Works (Direct receipts).*—The budget estimate for 1902-1903 was Rs. 17,80,000, and the revised estimate is taken at Rs. 21,00,000, the receipts from both the Sone and Orissa Canals being expected to be better than the budget owing to an unusually large *rabi* irrigation in South Bihar. The estimate for 1903-1904 has been passed for Rs. 18,45,000.

27. *Minor Works and Navigation in charge of the Public Works Department.*—The estimate of receipts for 1903-1904 is Rs. 6,00,000 against Rs. 5,70,000, the revised estimate for 1902-1903. An increase is expected from the Calcutta and Eastern Canals.

28. *Civil Works.*—The estimate of receipts by the Public Works Department for 1903-1904 is Rs 2,00,000, which is the same as the budget estimate for 1902-1903, but the revised estimate for the current year has been placed at Rs. 2,20,000 owing to the anticipated increase in the Government share of the profits of the Darjeeling-Himalayan Railway. The estimate of receipts by the Civil Department is Rs. 2,64,000 against Rs. 2,60,000, the revised estimate for the current year. The estimate is based on the prospect of improved settlements to be made with farmers for ferries.

EXPENDITURE.

29. *Refunds and Drawbacks.*—The total Provincial expenditure in 1903-1904 is estimated at Rs. 1,57,000 against Rs. 2,42,000, the revised estimate for 1902-1903. The revised estimate includes special adjustments, both under Land Revenue and Provincial Rates, the former being the amount recovered from the Bettiah Estate in previous years on account of survey and settlement works and originally credited to Land Revenue, but subsequently transferred to special advances by debit to this head, while the latter includes two special payments made from the Singhbhum and Darbhanga Treasuries.

30. *Land Revenue.*—The total Provincial expenditure for 1903-1904 is estimated at Rs. 44,14,000 against Rs. 43,75,000, the budget estimate for 1902-1903, and Rs. 40,69,611, the actuals of 1901-1902, as shown below:—

Heads.	1901-1902. Actuals.	1902-1903. Budget.	1902-1903. Revised	1903-1904 Budget.
	Rs.	Rs.	Rs.	Rs.
(1) Charges of District Administration ...	32,26,855	33,27,000	31,65,000	33,59,000
(2) Charges on account of Land Revenue collections	1,078	1,000	1,000	1,000
(3) Management of Government estates ...	5,16,787	5,45,000	5,50,000	5,25,000
(4) Survey and Settlements	2,36,317	4,09,000	2,43,000	4,39,000
(5) Land Records and Agriculture ...	88,574	93,000	95,000	90,000
Total ...	40,69,611	43,75,000	40,54,000	44,14,000

The increase under (1) is due to larger provision made under "Salaries for the proposed reorganization of the Subordinate Executive Service," which is awaiting the sanction of the Government of India, while the increase under (4) is based on local requirements.

31. *Stamps.*—The estimate for 1903-1904 is Rs. 8,04,000 against Rs. 8,53,000, the budget grant for 1902-1903. The decrease is chiefly under "Stamp paper supplied from Central Stores," the estimate under this head being Rs. 3,68,000 against Rs. 4,16,000, the budget estimate for 1902-1903. The Provincial share (three-fourths) is Rs. 6,03,000.

32. *Excise.*—The total expenditure for 1903-1904 is estimated at Rs. 8,12,000 against Rs. 7,56,000, the budget grant for 1902-1903. The budget includes provision for local allowance of Excise Deputy Collectors.

33. *Customs.*—The estimate for 1903-1904 is Rs. 10,00,000 against Rs. 9,73,000, the budget estimate for 1902-1903. The increase is chiefly due to a provision for the reorganization of the Customs Department.

34. *Forests.*—The total budget grant for 1903-1904 is Rs. 7,20,000 against Rs. 7,43,000, the estimate for 1902-1903. The decrease is due to no payment being required for rent of leased forests managed by Government. The Provincial share of one-half is Rs. 3,60,000.

35. *General Administration.*—The total Provincial expenditure in 1902-1903 was originally estimated at Rs. 17,57,000, but in the revised estimate this has been raised to Rs. 22,46,000. The increase is chiefly for charges in connection with the Delhi Coronation Durbar. The estimate for 1903-1904 is Rs. 17,56,000.

36. *Law and Justice—Courts of Law.*—The budget estimate under this head for 1902-1903 was Rs. 96,85,000, but in the revised estimate this has been reduced to Rs. 94,78,000 for the reasons explained in paragraph 5 above. The estimate for 1903-1904 has been passed for Rs. 99,30,000, which includes provision for the additional Puisne Judge of the High Court and other officers and establishment provided for in the budget for the current year. Provision has been made (*a*) for the appointment of four Additional Subordinate Judges and for the improvement of the position of Munsifs by the revision of grades, recently sanctioned, (*b*) for four temporary Subordinate Judges and for additional establishment in Civil Courts, (*c*) for the reorganization of the Subordinate Executive Service, half of which charge is paid for under this head, (*d*) for increase of establishment in Criminal Courts, and (*e*) for an increased grant under "Allowances."

37. *Jails.*—The estimate for 1902-1903 was Rs. 29,43,000 against Rs. 29,92,319, the actuals of 1901-1902. The actual charges of the first nine months of the current year amounted to Rs. 18,19,000; and in consideration of the expenditure of the last three months of the preceding three years, and in view of the anticipated savings owing to the release of prisoners on the occasion of the celebration of His Majesty's Coronation in India, the revised estimate has been placed at Rs. 27,00,000. The estimate for 1903-1904 is Rs. 28,59,000,

38. *Police.*—The following table compares the estimates under this head:—

Heads.	1901-1902. Actuals.	1902-1903.		1903-1904. Estimate.
		Budget.	Revised.	
	Rs.	Rs.	Rs.	Rs.
(1) Presidency Police ...	8,201,26	8,74,000	8,40,000	9,36,000
(2) Municipal Police ...	43,007	49,000	35,000	49,000
(3) Superintendence ...	1,63,435	1,54,500	1,64,000	1,69,000
(4) District Executive Force ...	47,75,120	53,85,000	48,35,000	53,93,000
(5) Village Police ...	52,968	50,000	49,000	52,000
(6) Special Police ...	1 53,015	1,45,600	1,52,000	1,52,000
(7) Railway Police ...	1,68,097	1,61,500	2,12,000	1,90,000
(8) Cattle-pounds ...	890	1,400	1,000	1,000
(9) Refunds ...	18,334	20,000	12,000	14,000
Total ...	61,94,992	68,41,000	63,00,000	59,56,000

The actuals of the first nine months of 1902-1903 indicate that there will be savings under the head of "Presidency Police" in the pay of the Police Force, under that of "District Executive Force," owing to savings in the salaries of officers and pay of Police Force, and to the fact that the lump provision for reforms has not been utilized. The revised estimate of total expenditure has been passed for Rs. 63,00,000 against Rs. 68,41,000, the budget grant for the year. The estimate for 1903-1904 is Rs. 69,56,000. Under (1) provision has been made for the local allowance of the Deputy Commissioner of Police and Rs. 50,000 for the reorganization of the Calcutta Police. Under (4) a provision of four lakhs has again been made for general reforms which it is expected will be carried out after the Police Commission have reported. Provision has also been made for the revision of establishment at the Training School for Sub-Inspectors. The other small increases are shown in Appendix B.

39. *Marine.*—The estimate for 1903-1904 is Rs. 12,72,000 against Rs. 10,15,000, the budget estimate for 1902-1903, and includes a provision of two lakhs for part of the cost of a new pilot steamer to replace the *Sarsuti* pilot brig at the Sandheads. Provision has also been made for larger payments to free-list pilots and licensed pilots.

40. *Education.*—The total Provincial expenditure in 1902-1903 was originally estimated at Rs. 42,42,000, but in the revised estimate this has been reduced to Rs. 30,14,000. The decrease is distributed among several heads, as shown in Appendix B, and has been partly explained in paragraph 5 above. The estimate for 1903-1904 is Rs. 37,84,000, to which must be added Rs. 4,52,940 which is transferred to District Boards, as explained in paragraph 51 below. The total expenditure for Education will therefore be Rs. 42,36,940. The allotment under the head of Education includes provision for the following new items: (*a*) the salary of a new Assistant Director (Rs. 6,000), (*b*) the purchase of astronomical instruments for the Presidency College (Rs. 1,000), (*c*) the appointment of three additional lecturers in the Sanskrit College (Rs. 2,700), (*d*) the establishment of a new female school (Rs. 8,000), (*e*) a new Muhammadan school in the northern part of the town of Calcutta (Rs. 6,000), (*f*) an additional grant for boarding charges of the Kurseong Victoria School (Rs. 9,000), (*g*) commercial classes in training colleges (Rs. 6,000), (*h*) Rs. 60,000 for raising the status of the Dacca Survey School to the status of the Bihar School of Engineering, (*i*) Rs. 57,888 for training institutions for primary school teachers, (*j*) Rs. 15,380 for a training institution for girls, (*k*) Rs. 10,780 for subsidiary model primary schools for girls, (*l*) Rs. 9,660 for grants to Missionaries for female education, (*m*) Rs. 28,300 for improvement of primary education in districts not under the Local Self-Government Act, (*n*) Rs. 20,000 for an addition to the Dacca boarding hostel, (*o*) Rs. 4,500 for scholarships for industrial students sent to Europe, (*p*) Rs. 1,25,000 for contribution to the proposed Provident Fund for teachers in primary schools, and (*q*) Rs. 2,000 for the training of officers in Europe.

41. *Medical.*—The budget grant for 1903-1904 is Rs. 23,70,000 against Rs. 24,35,000 and Rs. 19,82,000, the budget and revised estimates, respectively,

for 1902-1903 and Rs. 20,59,325, the actuals of 1901-1902. The budget estimate includes a provision of Rs. 3,20,000 for expenses in connection with plague, Rs. 30,000 for electric fans and light in the General Hospital, and Rs. 8,000 for the proposed enlargement of the Dacca Medical School.

42. *Political.*—The original budget grant for 1902-1903 was Rs. 20,000. It has been raised to Rs. 66,000 in the revised estimate, or by Rs. 46,000. This increase is due to expenditure in Calcutta and the mufasal in connection with the celebration of the Coronation of His Majesty the King-Emperor of India. The estimate for 1903-1904 is Rs. 22,000, which includes Rs. 2,000, the Government share of the cost of demarcation of the boundary between the Tributary Estates and Government lands in Orissa.

43. *Scientific and other Minor Departments.*—There is an increase of Rs. 70,000 over the budget estimate for 1902-1903, which is due to additional grants for the Veterinary Hospital and the Cinchona plantations. Provision has also been made of Rs. 5,000 on account of such grant as may be necessary in connection with the Louisiana Exhibition, Rs. 40,000 for the revision of the *Imperial Gazetteer* and the *Statistical Accounts of Bengal*, and Rs. 13,000 for an Inspector of Mines.

44. *Superannuation.*—The charges under this head show a progressive increase year by year owing to the increase in the claims to pensions. The estimate for 1903-1904 is Rs. 25,60,000 against Rs. 24,62,000, the budget grant for 1902-1903, and Rs. 23,88,677, the actuals of 1901-1902.

45. *Stationery and Printing.*—The estimate for 1903-1904 is Rs. 12,54,000 against Rs. 12,25,000, the estimate for 1902-1903. The budget includes provision for the revision of establishment in the office of the Superintendent of Stationery.

46. *Miscellaneous.*—There is an increase of Rs. 5,000 only as compared with the budget estimate for 1902-1903. The details are shown in Appendix B.

47. *Irrigation Major Works.*—The total grant for working expenses is Rs. 12,25,000, which is the same as the budget grant for the current year, and Rs. 11,32,636, the actuals of 1901-1902.

48. *Irrigation Minor Works in charge of the Public Works Department.*—The estimate for 1903-1904 is Rs. 19,50,000, against Rs. 15,00,000, the budget grant for 1902-1903, and Rs. 13,17,386, the actuals of 1901-1902. The estimate includes Rs. 5,00,000 for procuring a dredger for use in the Circular and Eastern Canals and the Nadia rivers, and Rs. 2,73,000 for the Bhil route between the Kumar and Madhumati rivers.

49. *Civil Works in charge of the Public Works Department.*—The Provincial expenditure for 1903-1904 is Rs. 55,20,000, which is distributed thus:—

	Rs.
Original works	29,58,000
Repairs	16,95,000
Establishment	8,33,790
Tools and Plant	33,210
Total ...	55,20,000

The allotment includes the following grants for original works:—

	Rs.
Construction of Magistrate's office building, Muzaffarpur ...	50,000
Construction of a Surgical Ward for the Medical College Hospital	2,20,000
Completion of the Presidency General Hospital	1,00,000
Construction of quarters for nurses in the Medical College and Eden Hospital	2,00,000
Extension of the High Court	2,50,000
Munsif's Courts and Residences	2,00,000
Construction of the Pathological Block, Medical College Hospital	90,000
New Central Jail for the Presidency Division	1,00,000
Extension of the Belgachia Veterinary School	50,000

	Rs.
Construction of a record-room for the District Judge's Court, Barisal	25,500
Construction of Subdivisional buildings, Dhanbad ...	30,000
Preservation of the *Kanarak* Temple	38,000
Ditto Rhotas Fort and Palace	23,000
Construction of a new hospital in the Jail, Barisal ...	23,100
Ditto double-storeyed barrack in the Jail, Chittagong	12,000
Ditto Dacca Training College	40,000
Ditto building for the Girls' School, Dow Hill, Kurseong	76,000
Construction of a Central Lunatic Asylum, Berhampore ...	95,500
Acquisition of land near the Fenwick Bazar thana	30,000
Construction of a branch Shipping Office at Kidderpore	33,400
Provision of residences for Government officials	2,00,000
Opening out new roads and improvements to existing roads in the Chittagong Hill Tracts	25,400
Grant-in-aid to feeder roads to Bengal-Nagpur Railway, Midnapore district	40,000
Minor works in progress	10,00,000

50. *Civil Works in charge of the Civil Department.*—The estimate for 1903-1904 is Rs. 3,57,000, which includes a provision of Rs. 3,00,000 for grants to Municipalities and Excluded Local Funds which are adjusted under this head. Provision has been made for a grant of Rs. 25,000 for the resurvey of the added area of the Calcutta Municipality, of Rs. 35,000 for contribution towards the scheme for the erection of incinerators by the Calcutta Corporation, and of Rs. 50,000 for acquisition of land for an extension of Christian burial-grounds.

51. *Contributions from Provincial to Local.*—The original estimate for 1902-1903, amounting to Rs. 14,00,000, has been raised to Rs. 19,73,000 in the revised estimate, in order to provide for special grants to District Boards for educational purposes, as already explained in paragraph 5 above. The estimate for 1903-1904 is Rs. 19,50,000, and includes a provision of five lakhs for special grants to District Boards, for improving their communications, and of two lakhs for the construction of feeder roads by District Board. Rupees 3,71,700 are provided for expenditure by the District Boards on primary education, Rs. 63,000 for additional Sub-Inspectors, and Rs. 18,240 for lower primary scholarships.

BENGAL PROVINCIAL REVENUE.

(The figures are in thousands of rupees, except for actuals.)

Heads	Actuals, 1901-1902	1902-1903. Budget.	1902-1903. Revised.	1903-1904 Estimate.
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Opening balance	42,61,612	47,08	49,06	56,43
Principal Heads of Revenue—				
I.—Land Revenue { Proper ...	1,05,52,406	1,05,19	1,06,26	1,05,97
I.—Land Revenue { Adjustments ...	—18,03,719	—2,19	—59	—3,52
IV.—Stamps	1,42,54,169	1,44,00	1,46,25	1,47,00
V —Excise	75,12,849	75,00	79,00	80,50
VI.—Provincial Rates	48,18,263	49,80	50,04	49,92
VII.—Customs	2,64,584	2,60	2,50	2,60
VIII —Assessed Taxes	28,25,846	28,50	29,50	25,35
IX —Forests	6,46,119	6,27	6,42	6,00
X.—Registration	8,34,831	8,00	8,42	8,50
Total ...	3,99,05,348	4,17,17	4,27,80	4,22,32
XII.—Interest	3,30 637	3,57	3,45	3,60
Receipts by Civil Department—				
XVI —Law and Justice—				
Courts of Law .	8,01,684	7,96	8,08	8,00
Jails	13,69,255	14,15	13,70	14,17
XVII.—Police	1,69,387	1,82	1,92	1,84
XVIII.—Marine	12,58,529	13,33	12,00	12,71
XIX.—Education	7,04,553	7,46	7,12	7,28
XX —Medical	2,07,659	2,19	2,26	2,25
XXI —Scientific and other Minor Departments	2,75,966	2,47	2,66	2,57
Total ...	47,87,033	49,38	47,74	48,82
Miscellaneous—				
XXII.—Receipts in aid of Superannuation	71,360	60	89	75
XXIII.—Stationery and Printing ...	1,38,822	1,58	1,51	1,45
XXV.—Miscellaneous	11,53,457	7,76	8,93	8,50
Total ...	13,63,639	9,94	11,33	10,70
Irrigation—				
XXIX.—Major Works (direct receipts) ...	17,76,911	17,80	21,00	18,45
XXX.—Minor Works and Navigation—				
By Public Works Department...	5,72,990	5,90	5,70	6,00
By Civil Department ..	1,03,063	1,23	1,20	1,09
Total ..	24,52,964	24,93	27,90	25,54
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department..	2,20,470	2,00	2,20	2,00
By Civil Department ...	2,63,436	2,69	2,60	2,64
Total ...	4,83,906	4,69	4,80	4,64
Contributions ...	2,45,320	42	63	63
Total ...	4,95,68,847	5,10,10	5,23,65	5,16,25
Grand Total ..	5,38,30,459	5,57,18	5,72,71	5,72,68

BENGAL PROVINCIAL EXPENDITURE.

(The figures are in thousands of rupees, except for actuals.)

Heads.	Actuals, 1901-1902.	1902-1903. Budget.	1902-1903. Revised.	1903-1904. Estimate.
1	2	3	4	5
Direct demand on the revenues—	Rs.	Rs.	Rs	Rs.
1. Refunds and Drawbacks ...	1,93,762	1,80	2,42	1,87
2. Assignments and Compensations ...	1,60,514	1,70	1,70	1,70
3. Land Revenue	40,69,611	43,75	40,54	44,14
6. Stamps	5,41,390	6,40	5,82	6,03
7. Excise	3,43,165	3,78	3,77	4,06
8. Provincial Rates	99,097	1,21	89	1,20
9. Customs	9,19,586	9,73	9,09	10,00
10. Assessed Taxes	1,00,858	1,00	1,00	1,03
11. Forests	3,28,566	3,71	3,57	3,60
12. Registration	4,70,635	4,75	4,71	4,80
Total ..	72,27,184	77,83	73,51	78,43
13. Interest on ordinary debt ...	2,09,602	2,19	2,03	2,09
Post Office, Telegraph and Mint—				
15. Post Office	2,787	6	4	6
Salaries and expenses of the Civil Department—				
18. General Administration ...	18,32,104	17,57	22,46	17,56
19. Law and Justice { Courts of Law ...	94,02,454	96,85	91,78	99,30
19. Law and Justice { Jails ..	29,92,319	29,13	27,00	28,59
20. Police	61,94,992	68,41	63,00	69,56
21. Marine	10,11,954	10,15	10,15	12,72
22. Education	29,41,016	42,12	30,14	37,84
24. Medical	20,59,325	21,35	19,82	23,70
25. Political	17,998	20	66	22
26. Scientific and other Minor Departments.	5,22,377	6,58	5,93	7,28
Total ...	2,69,74,539	2,95,96	2,73,94	2,96,77
Miscellaneous—				
29. Superannuation, &c	23,88,677	24,62	24,55	25,60
30. Stationery and Printing ...	12,94,064	12,25	12,45	12,54
32 Miscellaneous	2,03,868	2,54	2,34	2,59
Total ..	38,86,609	39,41	39,34	40,73
Famine Relief and Insurance—				
33 Famine Relief . ..	3,530	.....	.. ..	.....
Irrigation—				
42 Major Works—				
Working Expenses .	11,32,636	12,25	11,96	12,25
Interest on Debt	24,54,094	24,55	24,53	24,53
43. Minor Works and Navigation—				
By Public Works Department ..	13,17,386	15,00	15,50	19,50
By Civil Department ...	4,232	5	5	5
Total ...	49,08,348	51,85	52,04	56,33
Buildings and Roads—				
45 Civil Works—				
By Public Works Department...	43,70,888	52,35	53,00	55,20
By Civil Department ...	1,20,643	3,53	2,65	3,57
Total ...	41,91,531	55,88	55,65	58,77
Contributions	12,20,547	14,00	19,73	19,50
Total ...	4,89,24,677	5,37,18	5,16,28	5,52,68
Closing balance	49,05,782	20,00	56,43	20,00
GRAND TOTAL ...	5,38,30,459	5,57,18	5,72,71	5,72,68
Provincial surplus (+) or deficit (—) ...	+6,44,170	—27,08	+7,37	(—)36,43

APPENDIX A.

Bengal Provincial Receipts, in detail, of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

The remarks in column 6, except when otherwise specially explained, refer to differences between columns 3 and 5.

I.—Land Revenue—

Heads	1901-1902	1902-1903.		1903-1904.	Remarks.
	Actuals	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Gross land revenue ..	4,08,11,631	4,07,14,000	4,10,00,000	4,07,17,000	Revised estimate based on actuals.
Deduct 12 per cent. on collections from Government Estates (Provincial)	6,07,351	6,04,000	6,12,000	6,17,000	Based on actuals.
Deduct recoveries of Bihar Survey and Settlement charges (Imperial)	4,24,060	4,50,000	3,30,000	1,80,000	Rupees 20,000 expected in Darbhanga and Rs. 1,60,000 in North Monghyr. A sum of 14 lakhs to be recovered in Purneah will be credited to "Advances recoverable."
Total deduction ...	10,31,411	10,54,000	9,42,000	7,97,000	
Net amount divisible between Imperial and Provincial	3,97,80,220	3,96,60,000	4,00,58,000	3,99,20,000	
Provincial share of above (one-fourth)	99,45,055	99,15,000	1,00,14,000	99,80,000	
Add 2 per cent. on collections from Government Estates	6,07,351	6,04,000	6,12,000	6,17,000	
Net ..	1,05,52,406	1,05,19,000	1,06,26,000	1,05,97,000	
Deduct on account of adjustments as shown below ..	−18,03,719	−2,19,000	−59,000	−3,52,000	
Total Provincial share	87,48,687	1,03,00,000	1,05,67,000	1,02,45,000	

Adjustments—

Fixed contribution to Imperial Revenues under the Provincial Settlement .	14,19,000	14,19,000	14,19,000	14,19,000	
Add payable to Imperial—					
For transfer of the South Lushai Administration to Assam	3,75,000	3,75,000	3,75,000	3,75,000	
For transfer of Provincial Museum .	19,000	19,000	29,000	19,000	Revised includes a special grant of Rs. 10,000 for purchase of certain articles of embroideries, &c., from the Indian Arts Exhibition at Delhi.
For contribution to the Nawab of Murshidabad for repairs to the Nizamat buildings	...		50,000	...	
For transfer of Statistical Department of the Bengal Secretariat to the Office of the Director-General of Statistics .	14,910	15,000	15,000	15,000	
Compensation to the Assam Administration on account of the realisation in Bengal of Income-tax from the Assam-Bengal Railway	13,000	13,000	13,000	13,000	
Compensation to the Central Provinces Administration on account of the realisation in Bengal of Income-tax from the Bengal-Nagpur Railway	17,120	16,000	16,000	16,000	
Total .	18,58,030	18,57,000	19,17,000	18,57,000	
Deduct to be recovered from Imperial—					
Compensation for duty on Shajahanpur rum issued to Bengal from the United Provinces of Agra and Oudh under bond ..	2,104	...	.....	..	
Special assignment for resumed chaukidari lands in Orissa . ..	36,068	36,000	36,000	36,000	
Ditto of three-fourths of the sale-proceeds of certain village industrial [illegible]	4,331	2,000	2,000	4,000	
Contribution for increase of expenditure under Education	....	10,00,000	10,00,000	10,00,000	
Assignment for expenditure under Public Works	.....	6,00,000	6,00,000	.	These are special grants
Assignment, for expenditure on Surgical block, Medical College Hospital in 1903-1904	...	..	2,00,000		
Assignment for expenditure under Irrigation Minor Works .	...	...	30,000	.....	
Assignment for remission of Income-tax on incomes below Rs. 1,000	.	..		4,62,000	
Assignment for the salary and travelling allowance of the Chief Commissioner, Assam and his Secretary and Personal Assistant, while on tour, paid in Calcutta	11,808	.. ...	..	. . ..	
Total ...	54,311	16,38,000	18,58,000	15,05,000	
Net sum to be transferred ...	18,03,719	2,19,000	59,000	3,52,000	

IV.—Stamps—

Sale of general stamps	52,49,092	53,00,000	53,77,000	54,50,000	The receipts under these heads continue to increase yearly.
Sale of court-fee stamps	1,33,38,075	1,35,50,000	1,37,50,000	1,38,00,000	
Sale of plain paper to be used with court-fee stamps	2,79,205	2,85,000	2,98,000	2,85,000	
Duty on impressing documents ...	19,314	20,000	28,000	20,000	
Fines and penalties	34,061	30,000	30,000	30,000	
Miscellaneous	15,812	15,000	17,000	15,000	
Total	1,90,05,559	1,92,00,000	1,95,00,000	1,94,00,000	
Provincial share (three-fourths)	1,42,54,169	1,44,00,000	1,46,25,000	1,47,00,000	

V.—Excise—

Heads.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised.	1903-1904. Budget.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
License and Distillery fees and duties for the sale of liquors and drugs—					
Foreign liquors	3,38,681	3,50,000	4,00,000	4,00,000	
Indian made liquors excised at tariff rates ...	7,91,107	9,30,000	9,30,000	9,30,000	
Country spirits—					
Distillery	12,03,186	65,50,000	72,65,000	74,70,000	
Outstills	35,53,908				
Still-head duty	21,74,745				
Miscellaneous	76,623				
Toddy revenue	10,50,283	10,50,000	11,01,000	11,51,000	
Opium and its preparation	7,09,339	7,00,000	7,40,000	7,40,000	
Other drugs, ganja, bhang, &c.	16,08,122	15,50,000	16,60,000	17,00,000	
Total ..	1,15,05,994	1,14,30,000	1,21,05,000	1,24,00,000	The revenue is gradually increasing year by year.
Gain on sale-proceeds of excise opium	19,11,377	20,00,000	20,00,000	20,00,000	
Duty on ganja	15,00,158	16,50,000	16,80,000	16,80,000	
Fines, confiscations and miscellaneous...	18,169	20,000	15,000	20,000	
Grand Total ...	1,50,25,698	1,50,00,000	1,58,00,000	1,61,00,000	Revised based on the actuals of first ten months of 1902-1903.
Provincial share (one-half)	75,12,849	75,00,000	79,00,000	80,50,000	

VI.—Provincial Rates—

Public Works Cess	46,65,503	48,40,000	48,32,000	48,50,000	Estimate raised in view of the anticipated completion of revaluation works in the districts of Midnapore, Jessore, Noakhali, and Shahabad.
General rates for management of private estates ...	1,52,760	1,40,000	1,72,000	1,42,000	
Total ...	48,18,263	49,80,000	50,04,000	49,92,000	Revised based on actuals of nine months of 1902-1903.

VII.—Customs—

Sea Customs—Miscellaneous	2,52,748	2,44,000	2,40,000	2,50,000	Based on actuals.
Warehouse and wharf-rent	10,214	14,000	8,000	8,000	
Fees for registration of cargo boats	167	2,000	2,000	2,000	
Other items	1,455				
Total ...	2,64,584	2,60,000	2,50,000	2,60,000	Revised based on nine months' actuals.

VIII.—Assessed Taxes—

Deductions by Government from salaries and pensions, &c.	5,14,880	5,00,000	5,20,000	4,50,000	
Deductions by Government from interest on Government securities	16,622	16,000	17,000	17,000	
Deductions from salaries, &c., paid by local authorities or companies	65,296	63,000	66,000	50,000	
Deductions from profits of Railway Companies ...	4,183	4,000	4,000	4,000	
Income-tax on securities of local authorities or companies	81,433	80,000	80,000	80,000	
Ordinary collections	49,31,593	50,00,000	51,75,000	44,31,000	
Penalties	22,959	23,000	23,000	23,000	
Miscellaneous	14,806	14,000	15,000	11,0[illegible]	
Total ..	56,51,692	57,00,000	59,00,000	50,70,000	The increase in the revised estimate is based on actuals.
Provincial share (one-half)	28,25,846	28,50,000	29,50,000	25,35,000	As the revenue under this head is gradually increasing from year to year, an increased provision of one lakh has been made over the revised estimate for 1902-1903, but a reduction of Rs. 9,30,000 has been made for remission of income-tax on incomes below Rs. 1,000.

IX.—Forests—

I.—Timber and other produce removed from the forests by Government agency . .	1,03,234	1,60,300	1,55,000	2,05,300	The increase in the budget is due to the introduction of departmental agency for supply of sleepers.
II.—Timber and other produce removed from the forests by consumers and purchasers ...	11,35,626	10,44,300	10,79,500	9,50,000	The falling off in the budget for 1903-1904 is partly in the Sunderbans for anticipated smaller sale of sundri wood, and partly in Singhbhum owing to disforestation, as also for diminution of payments for *sabai* grass.
III. Drift and waif-wood and confiscated forest produce	4,812	7,900	7,500	6,700	
V. Miscellaneous	48,565	42,500	43,000	38,000	
Total ...	12,92,237	12,55,000	12,85,000	12,00,000	
Provincial share (one-half)	6,46,124	6,27,000	6,42,000	6,00,000	

X.—Registration—

Heads	1901-1902. Actuals	1902-1903. Sanctioned estimate	1902-1903. Revised	1903-1904. Budget	Remarks.
1	2	3	4	5	6
	Rs	Rs.	Rs	Rs	
Fees for registering documents ..	15,95,889	15,25,000	16,10,000	16,26,000	Increase due to gradual development.
Fees for copies of registered documents ...	26,490	31,000	30,000	30,000	
Miscellaneous ..	47,284	44,000	44,000	44,000	
Total	16,69,663	16,00,000	16,84,000	17,00,000	
Provincial share (one-half) ..	8,34,831	8,00,000	8,42,000	8,50,000	Revised based on the actuals of the first ten months of the year

XII.—Interest—

Class I—Interest on advances to cultivators—					
On advances to cultivators under Land Improvement Loans Act	16,123	12,000	37,000	42,000	Based on the estimated outstanding mean balances.
On advances to cultivators under Agriculturists' Loans Act XXII of 1884	28,184				
" *II*—Interest on advances under Special Laws—					
On Drainage and Embankment Advances	62,395	71,000	70,000	64,000	
" *III*—Interest on loans to landholders, &c	3,300	4,000	6,000	7,000	
" *IV*.—Interest on loans to Municipal and other Public Corporations (excluding Presidency Corporations) ..	1,59,577	1,74,000	1,72,000	1,80,000	
Interest on Government securities ..	13,731	14,000	13,000	14,000	
Miscellaneous—					
Interest on arrears of Public Works Cess	40,243	47,000	40,000	40,000	Based on actuals
Interest on the capital cost of His Honour the Lieutenant-Governor's house, &c	1,306	1,000	1,000	1,000	
Interest on zamindari embankment recoveries	1,625	2,000	2,000	2,000	
Other items ..	4,183	2,000	4,000	4,000	
Total Miscellaneous	47,357	52,000	47,000	47,000	
Grand Total	3,30,657	3,57,000	3,45,000	3,60,000	

XVIA.—Law and Justice—Courts of Law—

Sale-proceeds of unclaimed and escheated property	28,707	28,000	34,000	28,000	A fluctuating item. Budget based on the average actuals of past three years
Court-fees realised in cash ..	46,354	55,000	46,000	46,000	Based on actuals
General fees, fines and forfeitures ...	6,82,838	6,70,000	6,78,000	6,80,000	
Pleadership examination fees ..	29,548	30,000	31,000	30,000	
Miscellaneous fees and fines	831	500	1,000	1,000	
Miscellaneous ..	13,406	12,500	18,000	15,000	
Total	8,01,684	7,96,000	8,08,000	8,00,000	Revised based on nine months' actuals

XVIB.—Jails—

Jails	19,374	15,000	20,000	17,000	Increased with reference to the average actuals of the past three years
Jail manufactures	13,49,881	14,00,000	13,50,000	14,00,000	
Total	13,69,255	14,15,000	13,70,000	14,17,000	Revised based on the actuals of the first nine months of the year

XVII.—Police—

Police supplied to Municipal, Cantonment and Town Funds . ..	8,254	10,000	9,000	9,000	Based on actuals.
Police supplied to Public Departments, private companies and persons, and Punitive Police	43,999	40,000	63,000	50,000	Increase in the revised due to larger recoveries on account of punitive police.
Presidency Police	83,370	1,00,000	90,000	90,000	Reduced with reference to actuals
Recoveries on account of village police .	5,448	5,000	3,000	6,000	Based on actuals
Fees, fines and forfeitures	20,380	20,000	20,000	21,000	
Cash receipts under the Arms Act .	80				
Miscellaneous	7,847	6,000	7,000	8,000	Raised with reference to actuals
Total	1,69,387	1,82,000	1,92,000	1,84,000	Revised based on actuals

XVIII.—Marine—

Heads.	1901-1902 Actuals	1902-1903. Sanctioned estimate	1902-1903. Revised.	1903-1904. Budget.	Remarks
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Sale-proceeds of vessels and stores	604	2,000	4,000	2,000	
Registration and other fees	61,583	62,800	62,000	61,000	
Pilotage receipts — Calcutta	10,90,583	11,70,000	10,93,000	11,00,000	These are fluctuating, and showed a falling off in 1902-1903
Pilotage receipts — Chittagong ..	20,736	20,000	20,000	20,000	
Lead-money for Leadsmen Apprentices	13,623	10,000	14,000	14,000	
Total	11,87,229	12,64,800	11,83,000	11,99,000	
Miscellaneous—					
Deductions for mess-money ..	12,546	12,000	13,000	12,000	
Contribution to Life boat establishment, Goalundo	350	200		200	
Marine Survey ...	39,337	36,000	38,000	39,800	Based on actuals
Fees for certificate of Ireland vessels under Act VI of 1884	240				
Miscellaneous receipts of the Shipping office	7,511	20,000	18,000	20,000	
Other items	5,305				
Overtime fees	4,052				
Total Miscellaneous	71,300	68,200	67,000	72,000	
Grand Total	12,58,529	13,33,000	12,00,000	12,71,000	Revised based on actuals

XIX.—Education—

Fees, Government Colleges . — General .	2,53,475	2,39,000	2,57,000	2,55,000	Based on actuals
Fees, Government Colleges — Professional	49,028	48,000	50,000	51,000	
Fees, Government Schools — General	3,20,417	3,71,000	3,27,000	3,35,000	Decrease due to smaller receipts from High and Boarding Schools
Fees, Government Schools — Special	12,020	15,000	12,000	13,000	
Contributions from Native States, private persons and Municipalities ...	12,553	13,000	14,000	12,000	
Income from endowments . ..	1,228	2,000	2,000	2,000	
Miscellaneous . ..	46,732	60,000	60,000	58,000	
Total	7,04,553	7,46,000	7,12,000	7,28,000	Revised based on actuals.

XX.—Medical—

Medical School and College fees .	60,541	70,000	57,000	60,000	
Hospital receipts (receipts from paying patients)	81,841	80,000	95,000	95,000	
Lunatic Asylum receipts .	15,491	18,000	22,000	18,000	Based on the average actual of last three years and the actuals of 1902-1903
Medicines sold by Civil Surgeons	763				
Contributions (from Municipalities and private persons) . .	44,800	40,000	45,000	45,000	
Miscellaneous .	6,542	5,000	9,000	7,000	
Total	2,07,959	2,19,000	2,26,000	2,25,000	Revised based on the actuals of nine months.

XXI.—Scientific and other Minor Departments—

Botanical and other public garden receipts	10,601	4,800	4,000	3,050	
Veterinary and stallion receipts	16,487	13,000	13,000	12,000	Decrease due to diminution of fees for treating sick animals.
Cinchona plantation receipts .	1,99,446	1,87,000	2,15,000	2,02,000	The increase in the revised due to larger sales of quinine and cinchona alkaloids
Receipts on account of experimental cultivation	262	700	1,000	500	
Emigration fees . .	34,776	37,300	33,000	35,010	Reduced in view of actuals
Examination fees	5,492	4,000	3,000	4,240	
Miscellaneous . .		200		200	
Total	2,76,966	2,47,000	2,66,000	2,57,000	

XXII.—Receipts in aid of Superannuation—

Family subscriptions of Native members of the Covenanted Civil Service	1,218	2,000	2,000	2,000	
Contributions of officers lent to Municipalities or Corporations	13,526	12,000	14,000	64,000	Based on the actuals of the first eight months of 1902-1903.
Contributions of officers lent to foreign service	38,763	41,000	53,000		
Contributions of persons employed by the Court of Wards	7,812	7,000	10,000		
Deductions from Marine Pension Fund .	9,681	8,000	10,000	9,000	
Refunds of Gratuities	360				
Total	71,360	60,000	89,000	75,000	Revised based on actuals of 10 months of 1902-1903.

XXIII.—Stationery and Printing—

Heads.	1901-1902	1902-1903		1903-1904	Remarks
	Actuals	Sanctioned estimate	Revised	Budget.	
1	2	3	4	5	6
	Rs	Rs	Rs	Rs	
Stationery receipts	1 443	1 500	2,000	1,500	
Sale of Gazettes and other publications	88,904	1,09,500	99,000	92,500	Budget is based on average of past actuals
Other Press receipts	48,475	47,000	50,000	51,000	Based on the average of the past five years
Total	1,38,822	1,58,000	1,51,000	1,45,000	Revised based on the actual collections of the first nine months of 1902-1903.

XXV.—Miscellaneous—

Unclaimed deposits	6,30,100	4,98,000	5,07,000	5,33,000	Both revised and the budget represent the amount likely to lapse to Government as per Accountant-General's estimates
Treasure-trove . .	191	..	.	.	
Sale-proceeds of Durbar presents . .	12,342	8,000	10,000	12,000	Based on actuals
Sale of old stores and materials	66,881	54,000	50,000	60,000	
Sale of lands and houses, &c	111				
Fees for Government audits (of Municipal and Excluded Local Funds) .	54,119	47,000	47,000	57,000	Based on the actual demands
Rents .	23,771	20,000	24,000	22,000	
Rates and taxes	193				
Miscellaneous fees, fines, and forfeitures	6,284	6,000	10,000	6,000	
Contributions	2,05,147	29,000	32,000	30,000	Budget based on the actual demands. The actuals of 1901-1902 include recoveries from Municipalities on account of plague charges which have since been stopped
Miscellaneous					
Fees and fines of Revenue Courts ...	69,037	60,000	72,000	70,000	
Recoveries of Law charges other than those in pauper suits	27,371	12,000	19,000	16,000	
Receipts of the steamer *Chaffinch* in Chittagong	2,716	3,000	4,000	3,000	
Value of mathematical stores returned ..		1,000		1,000	
Sundry receipts—Circuit-house	178	500	500	500	
Miscellaneous receipts on account of Government Management of Ward Estates	11,956		500		Special receipts in Saran in April 1901
Sale of elephants .	4,794	2,000	4,500	4,000	
Other items .	38,416	25,500	52,500	45,500	
Total Miscellaneous	1,74,128	1,14,000	1,53,000	1,30,000	Based on actuals. The increase in the revised due to special receipts
Grand Total	11,53,457	7,76,000	8,93,000	8,50,000	

XXIX.—Major Works—(Direct Receipts)—

Orissa Canals	3,49,006	3,98,000	4,22,000	4,20,000	
Midnapore Canal .. .	2,49,922	2,42,000	2,23,000	2,15,000	Decrease due to the opening of the Bengal Nagpur Railway.
High Tidal Canal	47,942	50,000	48,000	47,000	
Sone Canals	11,38,971	10,90,000	14,11,000	11,60,000	The increase in the revised is mainly due to an unusually large irrigation for rabi in 1902.
Total	17,76,911	17,80,000	21,00,000	18,45,000	

XXX.—Minor Works (Direct Receipts)—

Heads.	1901-1902. Actuals.	1902-1903 Sanctioned estimate	1902-1903 Revised.	1903-1904. Budget.	Remarks
1	2	3	4	5	6
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT	Rs	Rs	Rs.	Rs	
Irrigation and Navigation Works					
Works for which Capital and Revenue accounts are kept—					
Orissa Coast Canal	47,647	48,000	37,000	37,000	Decrease due to the opening of Bengal-Nagpur Railway
Saran Canal .	1,108	300	1,000	1,000	
Calcutta and Eastern Canals .	3,85,485	4,10,000	3,99,000	4,28,000	The falling off in 1901-1902 was due to a very poor crop in the Sundarbans which suffered from a storm-wave
Total	4,34,240	4,58,300	4,37,000	4,66,000	
Works for which only Revenue accounts are kept—					
Nadia Rivers	86,493	92,000	86,000	89,500	
Gaighatta and Bhil Khal	3,831	4,500	4,500	4,500	
Total	90,324	96,500	90,500	94,000	
Works for which neither Capital nor Revenue accounts are kept—					
Eden Canal . .	28,840	28,000	20,300	28,000	
Teur Canal ..	196	200	200	200	
Total	29,036	28,200	20,500	28,200	
Total Irrigation and Navigation Works .	5,53,600	5,83,000	5,57,000	5,88,200	
Agricultural Works.					
Works for which neither Capital nor Revenue accounts are kept—					
Government embankments .	8,700	5,000	7,000	6,500	
Takavi embankments under contract	5,690	2,000	6,000	5,000	
Total Agricultural Works ..	14,390	7,000	13,000	11,500	
Total in charge of Public Works Department ..	5,72,080	5,90,000	5,70,000	6,00,000	Revised based on the actual collections of the first seven months of 1902-1903.
IN CHARGE OF CIVIL DEPARTMENT					
Recoveries on account of lands benefited by embankments	85,056	1,05,000	1,20,000	93,000	Budget based on actual demand
Capitalized maintenance charges of the Rajapur drainage system	18,007	18,000		15,000	Budget based on the average receipts of the past five years.
Miscellaneous receipts of the—					
Howrah drainage . .		3,000		1,000	
Rajapur ditto . . .					
Total in charge of the Civil Department	1,03,063	1,23,000	1,20,000	1,09,000	Revised based on the actuals of nine months of 1902-1903.
GRAND TOTAL	6,75,023	7,13,000	6,90,000	7,09,000	

XXXII.—Civil Works—

IN CHARGE OF THE PUBLIC WORKS DEPARTMENT					
Total gross receipts	2,20,470	2,00,000	2,20,000	2,00,000	Increase in the revised due to anticipated increase in the receipts from the Darjeeling Himalayan Railway.
IN CHARGE OF THE CIVIL DEPARTMENT					
Tolls on ferries	2,51,864	2,56,000	2,48,000	2,52,000	Budget framed with reference to settlements made with farmers.
Cemetery receipts	3,805	3,000	4,000	4,000	Based on actuals.
Receipts from staging bungalows and encamping grounds	7,617	10,000	8,000	8,000	
Miscellaneous	150	.	.	... ..	
Total	2,6 ,436	2,69,000	2,60,000	2,64,000	Revised based on actuals.
GRAND TOTAL ...	4,83,906	4,69,000	4,80,00 (	4,64,000	

APPENDIX B.

Bengal Provincial Expenditure, in detail, of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

The remarks in column 6, except when otherwise specially explained, refer to difference between columns 3 and 5.

1.—Refunds and Drawbacks—

Heads.	1901-1902	1902-1903		1903-1904	Remarks
	Actuals	Sanctioned estimate	Revised	Budget	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Land Revenue (one-fourth)	27,918	18,000	64,000	20,000	The increase in the revised is due to a special adjustment of the amount recovered from the Rottah Estate in previous years on account of Survey and Settlement works and originally credited to Land Revenue, but subsequently transferred to "Special Advance" by a debit under "Refund."
Stamps (three-fourths)	1,20,107	1,20,000	1,20,000	1,20,000	Based on the average actuals of past three years
Excise (one-half)	4,539	4,000	4,000	6,000	
Assessed Taxes (one-half) ...	12,021	12,000	12,000	12,000	
Forest (one half)	2,158	1,000	1,000	2,000	
Registration (one-half)	1,656	3,000	3,000	2,000	
Provincial Rates	9,085	10,000	20,000	10,000	Revised includes two special payments, Rs. 6,855 and Rs. 11,387, in Singhbhum and Partabhanga
Customs (other than Export and Import duty) ..	15,728	10,000	16,000	15,000	Raised with reference to progressive increase of expenditure since 1899-1900
Total	1,93,762	1,80,000	2,42,000	1,87,000	Revised based on actuals

2.—Assignments and Compensations—

Malikana	1,60,514	1,70,000	1,70,000	1,70,000	

3.—Land Revenue—

Charges of District Administration— General Establishment .. .	27,98,271	28,02,000	27,73,000	29,68,000	The decrease in revised is due to savings under basic rice owing to leave out of India and changes of officers, and also for savings under Collectors' office establishment and contingency. Budget includes provision of Rs. [illegible] for reorganization of the Subordinate Executive Service *ante* also remarks against record-room establishment
Subdivisional Establishment ..	1,18,1[illegible]	1,20,000	1,27,000	1,25,000	Increase due to the opening of a new subdivision at Gumla in Ranchi
Partition Establishment ..	[illegible]	[illegible]	[illegible]	[illegible]	
Process-serving Establishment	2,[illegible]	[illegible]	1,[illegible]	2,[illegible]	Decrease due to larger debit to the Land Law and Revenue Courts of Law
Record-room (or copy-making) establishment	14,28	4,000	13,000	13,000	The decrease is due to provision being made for the permanent establishment under general establishment
Survey of waste lands (Establishment)	27,[illegible]	26,000	26,000	26,000	
Management of private estates under Act X of 1892	20,813	27,000	23,000	26,000	Decrease due to the release of the Bardwan Estate from the Court of Wards
Deduct for rounding .				[illegible]	
Total charges of District Administration ..	3,[illegible]	33,7[illegible]	3,[illegible]	3,[illegible]	
Charges on account of Land Revenue collections	1,018	1,000	1,000	1,000	
Management of Government estates— Collection of Revenue	2,85,124	3,00,000	3,17,000	3,28,000	
Outlay on improvements	2,[illegible]	2,[illegible]	2,[illegible]	1,[illegible]	
Total	5,10,787	5,45,000	5,50,000	5,15,000	Estimate based on the estimate of collections.
Survey and Settlement— Controlling office (Survey)	11,713		60,000	1,28,000	Estimates are based on requirements of the operations
Other survey operations, including Bengal Drawing Office ..	70,161	88,700			
Minor settlement operations ...	51,451	[illegible]	1,77,000	40,000	
Other ditto	1,13,909	2,[illegible]		2,70,8[illegible]	
For rounding	.	4,08,761 249			
Total ..	2,36,317	4,[illegible]	2,41,000	4,[illegible]	
Land Records and Agriculture— Superintendence	58,042	59,000	59,000	55,000	
District charges	30,532	34,000	36,000	35,000	
Total ...	88,574	93,000	95,000	90,000	

6.—*Stamps*—

Heads.	1901-1902. Actuals	1902-1903 Sanctioned estimate.	1902-1903 Revised	1903-1904. Budget.	Remarks.
1	2	3	4	5	6
Superintendence—	Rs	Rs	Rs	Rs	
Presidency Executive Establishment ..	83,313	92,432	85,000	82,429	The decrease in the revised is under Supplies and Services, and that in the budget, for smaller provision under Salary of the Superintendent, as the new incumbent will draw the minimum pay of the post.
District Establishment	6,356	7,764	7,000	6,722	
		1,00,196		96,191	
Deduct—For rounding .	..	196		191	
Total	89,669	1,00,000	92,000	96,000	
Charges for the sale of general stamps—					
Discount on sale of one-anna stamps ..	27,079	25,000		28,030	The increase in the revised is due to larger payment of discount on account of larger sales of general stamps. Budget based on actuals.
Ditto bills of exchange or hundies	4,069	5,000	2,06,000	6,000	
Ditto other general stamps .. .	1,72,699	1,60,000		1,78,000	
Charges on sale of court-fee stamps—					
Discount on sale of adhesive stamps ...	97,054	1,20,000	1,06,000	1,00,000	Based on actuals.
Ditto stamps for copies ..	8,284	9,000		10,000	
Establishment for sale of stamps	30				
Discount on plain paper	17,276	18,000	18,000	18,000	
Stamp paper supplied from Central Stores .	3,04,394	4,10,000	3,64,000	3,68,000	The estimate of the Superintendent of Stamps
Total .	7,21,854	8,63,000	7,76,000	8,04,000	
Provincial share (three fourths)	5,41,390	6,40,000	5,82,000	6,03,000	

7.—*Excise*—

Superintendence	80,092	82,000	81,000	81,000	
Presidency establishment—					
Calcutta Collectorate	86,805	65,000	64,000	66,000	
Inspection and Prevention		20,000	24,000	27,000	
District Executive establishment—					
Sadar establishment	1,06,867	1,00,356	1,18,000	1,26,141	The increase in the revised is due to larger expenditure under Salaries, while that in the budget for higher rates of pay of officers and for the Local Allowances of Deputy Collectors.
Inspection and prevention	1,66,348	2,30,036	2,07,000	2,20,056	
Allowances	1,02,935	1,04,000	1,18,000	1,32,000	Increased for increase of establishment.
		4,43,092		4,88,400	
For rounding ...		8		600	
		4,44,000		4,89,000	
Distilleries—					
Presidency establishment	7,017	9,000	9,000	10,500	
District establishment	1,28,205	1,36,000	1,36,000	1,38,500	
Total	6,86,329	7,56,000	7,54,000	8,12,000	
Provincial share (one-half)	3,43,165	3,78,000	3,77,000	4,06,000	

8.—*Provincial Rates*—

Collection of rates and cesses	3,55,420	3,80,000	3,12,000	3,84,000	The decrease is due to smaller provision for process-serving charges.
Valuations and revaluations	1,61,255	1,04,000	1,77,000	1,98,000	Estimate framed according to requirements.
Total ..	5,16,675	5,33,000	4,89,000	5,82,000	Revised based on the actuals of nine months.
Deduct—Portion debitable to Local Funds for cost of Road Cess collections and valuations and revaluations (1rd of gross charges)	3,51,908	3,03,000	3,26,000	3,88,000	
Deduct—1rd share of recoveries on account of collection of arrear cesses	56,223	60,000	60,000	60,000	
Deduct—Amount towards contribution for pension of the cess-collecting establishment (⅓ of ⅔ of the pay)	9,442	9,000	9,000	9,000	
Deduct—Refunds of Road Cess adjustable under this head	.....	.....	5,000	5,000	

9.—*Customs*—

Heads.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised	1903-1904 Budget	Remarks.
1	2	3	4	5	6
Calcutta—	Rs.	Rs.	Rs.	Rs.	
Salaries	65,253	65,420	68,000	86,400	Budget includes a lump provision of Rs. 20,000 for reorganisation of the Customs Department.
Collector's establishment	1,75,453	1,83,820	1,75,000	1,90,050	
Appraising establishment	82,639	86,280	82,000	87,000	
Preventive establishment	3,46,115	3,70,000	3,48,000	3,65,000	Smaller provision made for temporary establishment.
Allowances	1,49,185	1,64,000	1,27,000	1,64,000	Saving in the revised is under overtime and holiday allowances
Supplies and services	23,458	34,550	25,000	37,550	Increased provision made for repairs of boats
Contingencies	33,018	25,200	38,000	32,000	Increase due to provision for installing electric fans in the Custom House.
Total Calcutta .	8,75,124	9,26,270	8,63,000	9,51,000	
Balasore	6,084	6,400	6,800	6,600	
Chittagong	30,097	32,100	31,000	34,000	Increased provision made for overtime and holiday fees.
Cuttack	6,117	6,000	6,000	6,200	
Dacca	679	700	700	700	
Puri	1,488	1,470	1,500	1,500	
Grand Total ...	9,19,589	9,73,000	9,09,000	10,00,000	

10.—*Assessed Taxes*—

Calcutta establishment	76,678	73,396	76,000	78,700	Budget includes provision for payment of commission for the collection of tax.
District establishment	1,27,039	1,26,604	1,24,000	1,27,300	
Total	2,01,717	2,00,000	2,00,000	2,06,000	
Provincial share (one-half)	1,00,858	1,00,000	1,00,000	1,03,000	

11.—*Forests*—

A.—Conservancy and Works					
I.—Timber, and other produce removed from the forests by Government agency ...	54,272	63,400	75,000	1,10,700	The increase in expenditure in budget is covered by the advance in receipts.
II.—Timber and other produce removed from the forests by consumers or purchasers	52,068	64,000	63,000	66,200	
III.—Drift, waif-wood and confiscated forest produce	1,048	3,000	3,000	3,000	
V.—Rent of leased forests and payments to shareholders in forests managed by Government	59,000	25,700	18,600	.....	The decrease in the revised is due to larger payments in 1901-1902. No payment is required in 1903-1904.
VI.—Live-stock, stores, tools and plant ..	47,177	13,000	23,000	18,800	The increase in the revised is due to the cost of electric installation of the S. S. *Hatch* and replacement of certain petrol boats
VII.—Communications and buildings	58,963	1,03,600	1,02,000	97,400	Estimate based on local requirements
VIII.—Organisation, improvement and extension of forests	60,572	68,500	77,700	70,200	The increase in the revised is due to additional funds required for the demarcation of the new reserves in Chittagong
IX.—Miscellaneous	4,558	6,300	6,400	6,100	
Total A.—Conservancy and Works .	[illegible]	3,77,800	3,28,700	3,71,000	
B.—Establishments.					
I.—Salaries	2,60,397	3,03,300	2,80,300	2,86,000	The decrease in the revised is due to the appointment of a 2nd grade Conservator, deputation of an officer on special duty, and the absence on leave of several subordinate officers.
II.—Travelling allowances	43,561	46,000	48,000	48,000	
III.—Cooling boxes	14,609	15,900	18,000	15,000	
Total B.—Establishments ...	3,18,567	3,65,200	3,46,300	3,49,000	
Grand Total	6,47,131	7,43,000	7,15,000	7,20,000	
Provincial share (one-half)	3,23,566	3,71,000	3,57,000	3,60,000	

12.—Registration—

Heads.	1901-1902.	1902-1903.		1903-1904.	Remarks.
	Actuals	Sanctioned estimate.	Revised.	Budget	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs	
Superintendence	53,354	54,600	53,000	54,000	
District charges—					
Calcutta	20,490	22,000	21,000	22,600	
Special Sub-Registrars	2,17,523	2,18,500	2,12,000	2,22,000	A small increase has been provided for establishment and allowances
Rural Sub-Registrars .	6,48,234	6,53,000	6,53,000	6,59,000	Increased in view of the gradual expansion of the operations of the department.
Ex-officio Sub-Registrars	1,670	1,500	2,000	1,600	
Total ..	8,87,917	8,95,400	8,88,000	9,00,000	
Grand Total	9,41,271	9,50,000	9,41,000	9,50,000	Revised based on the actuals of nine months of the year
Provincial share (one-half)	4,70,635	4,75,000	4,71,000	4,80,000	

13.—Interest on Ordinary Debt—

Interest on Provincial Advance and Loan Account ..	2,09,602	2,10,000	2,03,000	2,09,000	Based on the estimated mean outstanding balance of loan carrying interest at 3½ per cent per annum

15.—Post Office—

District Post Charges . .	2,787	6,000	4,000	6,000	

18.—General Administration—

Salary of Lieutenant-Governor	1,00,467	96,000	1,06,000	96,000	The increase in the revised is nominal and is owing to certain paper adjustments
Staff and household of Lieutenant-Governor	1,13,625	47,000	4 10,000	43,800	The actuals include charges for new railway saloons The revised includes the cost of entertaining official and non-official guests at the Delhi Coronation Durbar
Tour expenses	37,223	62,000	1,35,000	55,000	Revised includes cost of tents, &c in connection with the Delhi Durbar Camp of the Lieutenant-Governor.
Legislative Council	35,315	66,200	63,000	65,000	
Civil Secretariat—					
Civil Secretariat (proper)	5,61,009	5,14,800	5,48,000	5,24,120	Increase due to larger provision for Officers on Special Duty
Marine Department	15,803	14,200	13,000	14,300	
Translator's Department	20,526	26,300	22,000	26,000	
Librarian's Department	4,734	4,000	4,000	4,600	
Board of Revenue	2,82,771	2,94,300	2,90,000	2,98,000	Increase due to provision on account of Tauzi Audit
Commissioners	6,02,616	5,83,800	6,04,000	5,83,000	The increase in the revised is for privilege leave allowances.
Civil Offices of Account and Audit	51,739	47,800	47,000	46,000	Reduction is due to change of officers and reduction of local allowance of Examiner.
Deduct for rounding ...	.....	..	.. ..	200	
Total ..	18,32,104	17,57,000	22,46,000	17,56,000	

Head.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised.	1903-1904. Budget.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
High Court—					
Judges	6,34,411	7,10,000	6,51,900	7,10,000	The decrease in the revised is due to the post of one Puisne Judge having been vacant for three months and the Additional Judge not having been entertained for the entire year.
Original Side	2,07,820	2,54,000	2,07,600	2,57,000	The saving in the revised is due to the posts of the Official Referee, Assistant Official Referee, as well as additional establishment provided for in the estimate not having been entertained for the entire year.
Appellate Side	2,27,396	2,43,600	2,33,000	2,44,600	Additional establishment provided for in the estimates for 1902-1903 was not entertained for the whole year, which accounts for the decrease in the revised estimate.
Copyists' Establishment	77,369	79,000	76,000	81,000	
Reporters	22,347	22,400	22,400	22,400	
Total ...	11,69,343	13,15,000	11,90,000	13,15,000	
Law Officers—					
English Law Officers	97,234	1,01,463	97,000	1,00,400	The decrease in the revised is chiefly under charges for conducting law suits.
Legal Remembrancer and High Court Pleaders	88,871	87,048	88,000	86,000	
Mufassal Establishment	1,79,022	1,70,530	1,74,000	1,85,600	The increase is for fees to pleaders in Criminal cases and Civil suits.
Deduct—For rounding ...		41			
Total	3,65,127	3,59,000	3,34,000	3,72,000	
Coroner's Court	7,384	8,000	7,000	8,000	
Presidency Magistrates—					
Calcutta Police Court	69,772	68,264	70,000	72,000	The increase is under Supplies and Services and Contingencies.
Municipal Magistrate's Court	5,728	5,736	...	..	The charge is finally adjusted by recoveries from the Calcutta Corporation.
Civil and Sessions Courts—					
District and Sessions Judges	12,87,409	12,60,080	12,88,000	13,01,000	The increase in the revised is under Salaries. Provision has been made in the budget for additional establishment already sanctioned and for the employment of chaukidars for watching the Court buildings at night.
Subordinate Judges	6,51,189	6,54,630	6,46,000	6,66,500	The provision for establishment was not fully utilised in 1902-1903. Provision has been made in the budget for four temporary Judges and their establishments.
Munsifs	16,04,911	16,64,600	16,98,000	16,93,000	Provision has been made for the reorganisation recently sanctioned and for certain temporary appointments and also for additional establishments.
Allowance	33,782	29,000	35,000	29,000	
Supplies and Services	4,46,279	4,24,000	4,40,000	4,71,220	Increased provision has been made for remuneration to copyists, diet and travelling allowance of witnesses, and process-serving charges.
Contingencies	1,44,646	1,54,154	1,45,000	1,61,386	Increased provision has been made under Rents and Taxes.
Process-serving Establishment	7,04,065	8,21,116	7,66,000	8,00,000	Provision made according to local requirements.
		50,08,180		51,22,100	
Deduct—For rounding ...		180		100	
Total ...	49,62,272	50,08,000	50,18,000	51,22,000	
Courts of Small Causes	1,63,680	1,74,000	1,59,000	1,74,400	Saving in the revised is chiefly under Salaries and partly under Contingencies.
Criminal Courts—					
General Establishment	23,56,369	24,54,000	23,37,000	25,18,520	Provision has been made for the reorganisation of the Subordinate Executive Service and for increase in the establishment and allowances.
Subdivisional Establishment	1,18,112	1,20,000	1,27,000	1,23,480	Two-fifths of the total cost provided under this head and one-fifth under Land Revenue.
Process-serving Establishment	62,561	69,000	1,33,000	1,36,000	
Tributary Mahals, Orissa	1,485	.....	1,900	.....	
Total ...	25,58,777	26,63,000	26,97,000	27,77,000	
Medicolegal Examination charges	18,559	19,000	11,000	13,000	
Bailiffs	68,[illegible]	73,000	73,000	77,000	Estimate based on the actuals of last [illegible]

19B.—Jails—

Heads.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised.	1903-1904. Budget.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Superintendence	53,481	52,000	54,004	53,000	
Establishments—					
Superintendents and Jailors	2,46,692	2,40,000	2,45,000	2,43,000	
Medical Establishment	30,750	40,000	41,000	38,000	
Clerical, Educational and Mechanical Establishments	900	240	1,000	240	
Warder Establishment	2,10,488	2,15,000	2,10,000	2,17,490	
Menial and other Establishments	10,846	13,000	12,000	13,000	
Dietary Charges	5,29,450	6,82,760	6,61,000	6,50,000	Reduced in view of Coronation releases.
Hospital Charges	87,587	91,000	90,000	85,000	
Clothing and Bedding of Prisoners	1,10,405	1,01,000	1,00,000	1,00,000	
Sanitation Charges	36,538	35,000	30,000	27,000	
Charges for moving Prisoners	53,753	50,000	54,000	51,000	
Miscellaneous Services and Supplies	1,09,706	1,16,000	1,12,000	1,31,840	Estimate based on local requirements.
Allowances	10,743	9,000	11,000	9,000	
Contingent Charges	37,541	42,000	40,000	43,000	
Extraordinary Charges for Live-stock and Tools and Plant	15,301	25,000	23,000	24,280	
Charges for Police Custody	12,612	10,000	12,000	12,880	Based on actuals.
Deduct—For rounding ...				240	
Total Jails ..	18,56,378	17,28,000	16,95,000	16,99,000	
Jail Manufactures	11,35,644	12,14,000	10,05,000	11,59,000	
Refunds	102	1,000	.....	1,000	Provision made for probable refunds.
Grand Total ...	29,92,319	29,43,000	27,00,000	28,59,000	Revised based on the actuals of first nine months of 1902-1903 and in view of the Coronation releases.

20.—Police—

Presidency Police—					
Police Commissioner (Superintendence) ...	56,211	59,000	60,000	63,900	Provision has been made for the local allowances of the Deputy Commissioner of Police and for annual increment of the Commissioner of Police.
Calcutta Police	7,49,695	7,91,100	7,67,000	8,48,500	The decrease in the revised is due to savings in the pay of the Police force. A provision of Rs. 50,000 has been made in the budget for reorganisation of the Calcutta Police.
River Police	9,788	9,200	8,000	9,650	
Salt Police	3,422	3,900	4,000	3,900	
Police Dead-house	1,010	800	1,000	1,000	
Refunds	.....	10,000		10,000	
Deduct—For rounding ...				950	
Total ...	8,20,126	8,74,000	8,40,000	9,36,000	
Municipal Police	43,007	49,000	35,000	49,000	
Superintendence	1,63,435	1,54,500	1,64,000	1,69,000	The increase in the revised is chiefly due to privilege leave allowances and to increase in the pay of Assistant to the Inspector-General. Provision has been made in the budget for reorganisation of establishment under the Deputy Inspector-General.
District Executive Force—					
Salaries	4,57,567	5,00,000	4,50,000	4,75,000	Provision made for salaries of present incumbents.
Police Force	30,98,338	30,12,300	31,05,000	36,28,500	The lump provision for Police reforms was not utilised in 1902-1903. Rs. 4,00,000 has been provided for reforms in the budget.
Training School for Sub-Inspectors	13,468	14,000	14,000	16,000	Estimate provides for revision of establishment.
Establishment	1,71,501	1,75,000	1,74,000	1,77,300	Provision has been made for increase of establishment charges sanctioned and for establishment for new steam-launch for Pabna.
Hospital charges	36,608	37,000	38,000	37,000	
Allowances	3,40,212	3,55,000	3,50,000	3,43,100	Pony allowance of head constables provided for in 1902 1903 excluded.
Supplies and Services	4,68,836	3,70,300	4,67,000	3,83,000	Increased provision has been made for purchase of horses.
Contingencies	1,53,408	2,90,000	1,33,000	2,91,000	
Other Police	36,321	31,000	35,000	46,500	Provision made for increase of guards for supply to private individuals.
Total ...	47,71,120	52,85,000	50,34,000	[illegible]	

20.—Police—con[illegible]1.

Heads.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised.	1903-1904. Budget.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Special Police—					
South Lushai Hills Police ...	4,354	.....	.....	.....	
Bengal Military Police ...	74,098	70,800	73,000	77,800	Increased provision made for ordnance stores.
Frontier Police, Chittagong ...	41,869	43,000	43,000	42,400	
Frontier Police, Angul ...	27,522	26,000	30,000	25,800	
Upper Burma Police Depôt ...	5,272	5,800	6,000	5,800	
Total ...	1,53,015	1,45,600	1,52,000	1,54,000	
Railway Police—					
East Indian Railway Police ...	55,108	54,000	65,000	60,000	Provision has been made for increase in Police force and increase under Rents and Rates.
East Coast Railway Police ...	2,835	3,500	3,000	1,400	The decrease is due to 1/4th cost being charged to Railway.
Eastern System Railway Police ...	84,099	73,500	1,16,000	92,300	Provision has been made for revision of the Police force. The increase in the revised is for larger outlay under Allowances and Supplies and Services of the Eastern System of Railway Police.
Assam-Bengal Railway Police ...	4,587	6,000	5,000	6,000	
Bengal and North-Western and Tirhut State Railway Police ...	10,011	11,000	10,000	12,100	Increased provision has been made for increase in the number of chaukidars.
Bengal-Nagpur Railway Police ...	7,919	9,500	9,000	10,000	
Bengal Central Railway Police ...	3,748	4,000	4,000	8,000	Increased provision has been made for additional Police force.
For rounding ...	.....	...	...	200	
Total ...	1,68,097	1,61,500	2,12,000	1,90,000	
Cattle-pounds ...	890	1,400	1,000	1,000	
Refunds ...	18,334	20,000	12,000	14,000	
Grand Total ...	61,94,092	68,41,000	65,00,000	69,56,000	

21.—Marine—

Salaries and allowances of officers and men afloat ...	63,813	69,100	68,000	69,000	
Victualling of officers and men afloat ...	20,945	23,200	22,000	23,100	
Purchase of marine stores and coal for the building, repairs and outfit of ships and vessels ...	84,164	1,02,000	96,000	1,00,000	Estimate based on local requirements. Provision has been made for the completion of the new launch for the Engineer-Surveyor's Department.
Purchase and hire of ships and vessels ...	10,000	15,000	20,000	2,15,000	Two lakhs provided for part of the cost of a new pilot-steamer to replace the *Sarasti*.
Pilotage and pilot establishments ...	6,96,508	6,44,500	6,71,000	7,02,500	The increase is due to [illegible] payment to free-[illegible] and also to licensed [illegible]. The same cause [illegible] the increase in the revised.
[illegible] establishments ...	[illegible]	[illegible]	[illegible]	[illegible]	
[illegible] to Steam-boat companies ...	[illegible]	[illegible]	[illegible]	[illegible]	
[illegible] ...	[illegible]	[illegible]	[illegible]	[illegible]	

Heads.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised.	1903-1904. Budget.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Direction	78,347	70,000	68,000	77,300	Provision has been made for an Assistant Director.
Inspection—					
Inspector of European Schools	17,057	18,000	18,000	18,000	
Inspectors of other Schools	3,36,059	3,40,000	3,27,000	3,40,000	The decrease in the revised is for savings under Salaries and Allowances due to the appointment of officers drawing less pay.
Total ...	3,53,116	3,58,000	3,45,000	3,58,000	
Government Colleges, General—					
English Colleges—					
Arts Colleges	3,65,979	3,77,000	3,91,000	3,96,000	The increase both in the revised and in the budget is under Salaries. The increase in the budget is also due to a provision of Rs. 11,000 for the purchase of astronomical instruments for the Presidency College.
Eden Hindu Hostel	28,626	29,800	26,000	31,600	The budget includes provision for gas lights.
Bethune College	34,641	36,500	35,000	36,000	
Oriental Colleges—					
Sanskrit College	31,214	36,000	35,000	38,000	Provision has been made for Lecturers on Vedanta Smriti, and Naya.
Calcutta Madrassa	48,055	51,800	52,000	49,000	
Elliott Madrassa Hostel	3,028	3,450	3,000	4,500	
Expenditure on petty construction and repairs...	52	...	...	...	
Expenditure on furniture and apparatus. . ..	22,698	17,000	22,000	20,000	
		5,51,550		5,75,100	
Deduct—For rounding	... ..	550	.....	100	
Total ...	5,81,293	5,51,000	5,64,000	5,75,000	
Government Colleges, Professional—					
Law Colleges	9,056	8,700	9,000	9,400	
Civil Engineering College, Sibpur, Howrah ...	2,01,226	2,02,700	2,16,000	2,15,000	Increase due to appointment of an additional Professor and a supernumerary teacher, and for increased grant for tools and appliances.
Expenditure on furniture and apparatus	1,871	4,500	8,000	4,500	
Apparatus required for Agricultural class ...	.....	1,500		1,500	
Total ..	2,12,153	2,17,400	2,33,000	2,31,000	
Government Schools, General	6,26,488	6,62,300	6,40,000	7,08,000	The saving in the revised is due to the provision for opening B and C class schools in certain high schools not having been fully utilised. The increase in the budget is chiefly due to provision for a new female school; for a new Muhammadan school in the northern part of Calcutta; for the appointment of a higher paid Head Master for Hare School; for additional masters and servants for District schools for additional grant under Boarding charges of the Kurseong Victoria Boarding School (boys'), for increased grant for furnishing the new building for girls' school; for the provision for commercial classes, and for additional grant for petty construction and repairs.
Ditto, Special	2,59,021	3,42,200	2,53,000	4,48,000	The decrease in the revised is due to smaller expenditure under Salaries and Establishment of Normal Schools as well as the grants for raising the Dacca Survey School to the status of the Bihar School of Engineering and for starting training colleges at Dacca and Hooghly not having been fully utilised. The increase in the budget is due to a provision of Rs. 60,000 against Rs. 30,000 for raising the status of the Dacca Survey School to the status of Bihar School of Engineering, and to the provision of Rs. 57,888 for training institutions for primary school teachers, and Rs. 15,380 for training institutions for girls.
Grants-in-aid	6,23,333	6,30,000	6,29,000	7,71,000	The estimate includes Rs. 10,780 for subsidising model primary schools for girls; Rs. 2,900 for female schools (higher stage); Rs. 9,060 for grants to Missionaries for female education; Rs. 38,500 for primary education in non-Board districts, and Rs. 20,000 for the Dacca boarding hostel.
Scholarships	1,90,406	2,06,000	2,00,000	1,90,000	Includes a special provision of Rs. 4,500 for scholarships to Europe for industrial students, while Rs. 13,[illegible] has been transferred to Local for lower primary scholarships.
Other [illegible]	53,473	2,62,000	73,000	2,06,000	The decrease in the revised is due to the non-[illegible] of the [illegible] Rs. 1,[illegible] for [illegible] to Provincial [illegible] teachers to [illegible]

24.—Medical—

Heads.	1901-1902	1902-1903.		1903-1904.	Remarks.
	Actuals	Sanctioned estimate.	Revised.	Budget.	
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs	
Medical Establishment—					
Superintendence	79,049	79,000	79,000	80,000	
District Medical Establishment	5,95,939	5,85,000	5,72,000	5,98,600	The decrease in the revised is due to savings in the salaries and allowances. The increase in the budget is under grants to dispensaries for supply of medicines to Government officers and for a provision of Rs 5,000 for value of medical stores required for preservation and despatch of viscera
Reserve Medical Officers and Subordinates	16,085	20,000	16,000	20,000	
Total	6,91,073	6,87,000	6,67,000	6,98,600	
Hospitals and Dispensaries—					
Presidency Hospitals and Dispensaries—					
Medical College Hospital .	1,35,311	1,44,000	1,46,000	1,59,000	Provision has been made for the purchase of microscopes for the Pathological and Physiological Department, for glass jars, and for increased grants for beddings and equipments
General Hospital .	2,04,297	1,96,000	2,24,000	2,17,300	Provision has been made for the supply of electric current for fans and lights. The increase in the revised is also due to the same cause
Campbell Hospital ..	74,591	92,000	73,000	83,200	The decrease in the revised is for smaller expenditure on supplies and services and contingencies
Albert Victor Asylum for Lepers ..	18,938	26,000	20,000	27,500	Ditto ditto
Mufassal Hospitals and Dispensaries	65,275	64,000	58,000	77,000	Increased provision has been made for allowances for attending Government hostels and boarding schools, and for increased grants for the Sambhu Nath Pandit's Hospital in view of the increased number of patients
Grants to Mufassal Hospitals and Dispensaries	55,233	59,000	57,000	67,000	Provision has been made for larger grants and to the increase in the number of dispensaries
Total ...	5,53,645	5,71,000	5,78,000	6,31,000	
Sanitation and Vaccination	1,87,246	1,89,000	1,92,000	1,88,000	The increase in the revised is under travelling allowance
Grants for Medical purposes—					
Microscopical experiments in jails		2,000		2,000	
Expenses during the prevalence of plague .	1,37,444	4,50,000	50,000	3,20,000	The decrease in the revised is due to smaller outlay in connection with plague
Expenses during the prevalence of epidemics	3,257	12,000	3,000	5,000	Estimate based on the average actuals of last three years
Expenses in connection with cholera inoculation	4,004	6,300	5,000	5,000	Based on actuals
Value of medical stores	1,102	1,200	1,000	1,000	
		4,71,500			
Deduct—Probable savings		—500			
Total	1,45,807	4,71,000	59,000	3,33,000	
Medical Schools and Colleges—					
Medical College	1,74,043	1,74,000	1,84,000	1,75,000	The increase in the revised is chiefly under Salaries
Medical Schools . . .	1,34,445	1,43,000	1,29,000	1,49,500	The decrease in the revised is partly under Salaries and partly under Supplies and Services. Provision has been made for the proposed enlargements of the Dacca Medical School
Total ...	3,08,488	3,17,000	3,13,000	3,24,500	
Lunatic Asylums	1,26,407	1,47,000	1,25,000	1,43,500	The decrease in the revised is for smaller expenditure under contingencies.
Special Hospital	13,001	15,000	12,000	13,500	
Chemical Examiner	32,717	37,000	35,000	37,500	
Refunds	941	1,000	1,000	1,000	
				23,69,600	
Add—For rounding				400	

25.—Political—

Heads.	1901-1902	1902-1903.		1903-1904	Remarks
	Actuals.	Sanctioned estimate	Revised	Budget.	
1	2	3	4	5	6
	Rs	Rs.	Rs	Rs	
Entertainment of Envoys and Chiefs ...	1,806	1,500	2,000	1,500	
Durbar presents and allowances to Vakils, &c. ...	13,993	17,000	17,000	17,000	
Miscellaneous ...	2,197	1,300	..	3,300	Rupees 2,000 provided for Government share of the cost of demarcation of boundary between Tributary States and Government lands in Orissa
Public rejoicing in celebration of Coronation	.....	.	47,000		Rupees 25,000 is for illumination and Durbar charges in the mufassal, and Rs. 22,000 for fireworks in Calcutta.
For rounding	..	200	..	200	
Total	17,998	20,000	66,000	22,000	

26.—Scientific and other Minor Departments—

Veterinary and Stallion Charges ...	60,916	72,700	68,000	1,11,200	The decrease in the revised is due to smaller expenditure under Establishment and Supplies and Services. The increase in the budget is due to provision having been made for increase in the pay of Assistant Superintendent and for provision for a fourth Lecturer to be appointed for giving veterinary training to the Sibpur agricultural students. The budget includes the pay and personal allowance of the Veterinary Assistant at Angul, and for grants to veterinary dispensaries at Dumka and Birbhum. Provision has also been made for larger grant under Purchase and Feed of Cattle.
Provincial Museums ...	1,707	1,400	1,000	.	The charge for Darjeeling Museum is paid from the Darjeeling Improvement Fund
Imperial Institute ...	30	500		500	
Donations to Scientific Societies ...	8,000	8,000	8,000	8,000	
Experimental Cultivation ...	48,916	1,21,700	69,000	1,16,000	The decrease in the revised is due to the provision of Rs 50,000 for cattle-breeding farm at Pusa not having been utilized. The decrease in the budget is for smaller grants for silk experiments and for Indigo Planters Association
Cinchona Plantations ...	1,64,452	1,83,600	1,70,000	2,00,000	The decrease in the revised is due to no expenditure having been incurred for Dumsong Division, while provision has been made in the budget for larger expenditure on the extension of cultivation to Dumsong Forest and for larger purchase of cinchona bark.
Public Exhibitions and Fairs ...	2,210	3,000	3,000	8,000	Provision has been made for a grant of Rs. 5,000 for the Louisiana Exhibition.
Botanical and other Public Gardens ...	1,40,433	1,41,400	1,41,000	1,23,000	The estimate for 1902-1903 includes a special grant of Rs 11,000 for the Zoological Garden.
Emigration ...	27,630	27,000	31,000	28,000	
Inspector of Factories ...	26,879	25,000	27,000	27,000	Estimate based on actuals.
Census ...	1,197	1,500	1,000	1,500	
Gazetteer, Statistical Memoirs ...	.	25,000	25,000	40,000	
Registration of Railway Traffic ...	8,696	8,300	8,000	8,500	
Registration of River Borne Traffic ...	5,264	5,000	6,000	5,000	
Provincial Statistics ...	16,253	18,900	18,000	18,700	
Examinations ...	3,171	5,500	5,000	4,500	
Inspector of Mines ...	3,374	...	15,000	13,000	
Miscellaneous and Refunds ...	7,251	10,100	9,000	9,500	

29.—Superannuation—

Heads.	1901-1902 Actuals.	1902-1903. Sanctioned estimate	1902-1903. Revised	1903-1904. Budget.	Remarks
1	2	3	4	5	6
	Rs	Rs	Rs.	Rs.	
Superannuation and retired allowances	23,33,920	24,00,000	24,00,000	25,00,000	Increased provision made to meet the annual growth of expenditure
Compassionate allowances ...	13,582	15,000	15,000	15,000	
Gratuities ..	8,212	7,000	8,000	9,000	Based on actuals
Marine Department Pensions ...	31,550	40,000	31,000	36,000	
Refunds ...	1,413		1,000		
Total	23,88,677	24,62,000	24,55,000	25,60,000	

30.—Stationery and Printing—

Stationery Office at the Presidency ...	1,77,854	1,65,000	1,74,000	1,93,000	Increase is due to the additional provision for the revision of establishment in the office of the Superintendent of Stationery
Ditto purchased in the country	62,080	65,000	63,000	64,000	
Government Presses	3,78,820	3,93,000	4,06,000	3,93,000	
Printing at Private Presses	2,441	1,000	2,000	2,000	
Stationery supplied from Central stores	6,70,580	6,00,000	6,00,000	6,00,000	
Refunds ..	1,680	1,000	1,000	2,000	
Total	12,94,004	12,25,000	12,45,000	12,54,000	Revised based on actuals

32.—Miscellaneous—

Travelling allowances to officers attending examinations ...	1,558	2,000	3,000	2,000	
Subscription to periodicals	−21,501	5,000	5,000	5,000	
Rewards for proficiency in Oriental languages, and allowance to Language Examination Committee	9,676	7,000	9,000	8,000	Provision made for local requirements
Cost of books and publications ...	688	1,000	1,000	1,000	
Donations for charitable purposes ..	90,017	1,11,200	1,05,000	1,22,000	Provision has been made for larger grants to the Calcutta Female Nurses' Institution
Charges on account of European vagrants	5,857	7,000	6,000	7,000	
Rewards for destruction of wild animals ..	7,963	10,000	8,000	10,000	
Petty establishments	27,896	32,700	31,000	32,700	
Special Commissions of Enquiry	29,117	5,000		5,000	
Irrecoverable temporary loans written off	5,249	6,000	5,000	6,000	
Charges for search of hidden treasure	59	1,000	...		
Rents, Rates, and Taxes	33,951	34,000	34,000	34,000	
Contributions ...	2,441	10,300	5,000	4,000	Reduced with reference to actuals
Miscellaneous and unforeseen charges	9,113	10,000	10,000	10,000	
Miscellaneous refunds	11,784	12,000	12,000	12,000	
		2,54,200		2,58,700	
For rounding ..	.	200		+300	
Total	2,03,808	2,54,000	2,34,000	2,59,000	Revised based on actuals

42.—Irrigation—Major Works—(Working Expenses)—

Orissa Canals	3,05,100	4,15,000	3,94,560	4,15,000	
Midnapore Canal	1,61,668	1,75,000	1,67,500	1,80,000	
Hijli Tidal Canal	28,658	40,000	43,000	30,000	
Sone Canals	5,47,210	5,95,000	5,01,000	6,00,000	
Total	11,32,636	12,25,000	11,06,000	12,25,000	

42.—Irrigation—Major Works—(Interest on Debt)—

Interest	24,54,094	24,55,000	24,53,000	24,83,000	

43.—Minor Works and Navigation—

Heads	1901-1902	1902-1903		1903-1904.	Remarks.
	Accounts.	Sanctioned estimate	Revised	Budget.	
1	2	3	4	5	6
IN CHARGE OF THE PUBLIC WORKS DEPARTMENT	Rs	Rs	Rs.	Rs.	
IRRIGATION AND NAVIGATION WORKS.					
Works for which Capital and Revenue Accounts are kept.					
CAPITAL					
Works in Progress					
Midnapore Canal ..	1,522		5,318		
Orissa Canals	49,006	82,500	42,500	65,300	The expenditure is mostly for the Dudhai Canal
Sone Canals ...	5,021	12,400			
Damodar Project ...	−1,200				
Saran Canals ..	−1		5,548		This is for a preliminary survey in connection with the proposed revival and extension of the canals suggested by the Irrigation Commission
Calcutta and Eastern Canals	1,44,766	2,48,600	3,70,834	7,73,000	Revised includes an additional grant of one lakh for expenditure on the new canal between Dhapipa and Bamunghatta and on the Maduripur Bhil route. Rs 5,00,000 has been provided in the budget for procuring a suction dredger for use on the Circular and Eastern Canals and the Nadia rivers and the balance is for the Bhil route between the Kumar and Madhumati rivers.
Tidal Canal	−98	...			
Total Capital	1,99,026	3,43,700	4,24,200	8,38,300	
REVENUE.					
Orissa Coast Canal	52,495	65,000	40,245	40,000	
Saran Canals	6,746	1,300	2,300	1,800	
Calcutta and Eastern Canals ..	2,54,051	2,16,000	2,70,388	2,58,000	
Total Revenue	3,13,292	3,12,300	3,30,933	3,08,800	
Total Works for which Capital and Revenue accounts are kept ...	5,03,818	6,56,000	7,55,133	11,47,100	
Works for which only Revenue Accounts are kept					
WORKS IN PROGRESS.					
Nadia Rivers ..	1,04,838	1,07,000	1,16,914	1,42,000	
Gaighatta and Buri Khals	334	620	600	520	
Total Works for which only Revenue accounts are kept	1,05,172	1,07,620	1,17,514	1,42,520	
Works for which neither Capital nor Revenue Accounts are kept					
WORKS IN PROGRESS					
Eden Canal Tour Canal	42,381 4,587	38,380	48,479	39,380	
Total Works for which neither Capital nor Revenue accounts are kept	46,968	38,380	48,479	39,380	
Total Irrigation and Navigation Works	6,55,958	8,02,000	9,21,146	13,29,000	
AGRICULTURAL AND DRAINAGE WORKS					
Works for which neither Capital nor Revenue Accounts are kept					
WORKS IN PROGRESS					
Government embankments and works for the improvement of Government and escheated estates Midnapore takavi embankments under contract Gandak takavi embankments under contract Works in charge of Civil Officers	5,31,415 41,225 79,180 9,605	6,98,000	6,28,854	6,21,000	
Total Agricultural	6,61,428	6,98,000	6,28,854	6,21,000	
Total in charge of the Public Works Department	13,17,386	15,00,000	15,50,000	19,50,000	
IN CHARGE OF CIVIL OFFICERS.					
Embankments under the contract system— Establishments .. . Contingencies .	1,453 51	1,452 48		1,452 48	
Maintenance charges of the Howrah and Rajapur drainages .	2,650	2,784		2,784	
Allowances ..	56	.....		100	
Refunds	22	.		..	
		4,284		4,384	
Add—For rounding .		716		616	
Total in charge of the Civil Department	4,232	5,000	5,000	5,000	
GRAND TOTAL	13,21,618	15,05,000	15,55,000	19,55,000	

45.—*Civil Works*—

Heads.	1901-1902. Actuals.	1902-1903. Sanctioned estimate.	1902-1903. Revised	1903-1904. Budget	Remarks.
1	2	3	4	5	6
In charge of the Public Works Department.	Rs	Rs	Rs.	Rs.	
Original Works					
Civil Buildings ... In progress / Not commenced	12,45,673	11,73,000 / 13,71,700	25,50,000	26,08,000	
Communications In progress / Not commenced	1,86,751	1,31,000 / 1,19,800	2,00,000	2,50,000	
Miscellaneous Public Improvements In progress / Not commenced	4,12,571	94,700 / -	85,000	40,000	
Total	19,38,995	28,40,200	28,35,000	29,58,000	The estimate depends on the funds available.
Repairs					
Civil Buildings	5,41,199	5,60,000	5,60,000	5,05,000	
Communications	5,31,415	9,10,000	9,34,000	10,23,000	
Miscellaneous Public Improvements	72,540	66,000	81,000	1,07,000	
Total	11,47,150	15,36,000	15,75,000	16,95,000	
Establishment	8,61,510	8,27,059	9,60,000	8,33,790	
Tools and Plant	35,862	30,841	21,000	33,210	
Stock and Suspense	80,362		−1,00,000	..	
Total in charge of Public Works Department	43,76,898	52,35,000	53,00,000	55,20,000	
In charge of the Civil Department					
Ferry charges	5,486	9,100	6,000	9,114	Estimate based on local requirements.
Ferry Refunds	42,072	32,000	35,000	35,000	Based on the average actuals of the past three years.
Staging bungalows ..	8,618	10,716	8,500	11,586	
Encamping grounds ..	692	1,284	500	1,300	
Contributions in aid of Excluded Local Funds and Municipalities ...	63,825	3,00,000	2,15,000	3,00,000	The decrease in revised is due to the provision for contributions for burial grounds not having been fully utilised
Total in charge of Civil Department	1,20,643	3,53,000	2,65,000	3,57,000	Revised based on actuals of first nine months of the year.
Grand Total ..	44,91,531	55,88,000	55,65,000	58,77,000	

Contributions from Provincial to Local.

[The figures are in thousands.]

Heads	Actuals, 1901-1902		1902-1903 Budget		1902-1903 Revised		Budget, 1903-1904		Remarks
	Receipts	Charges	Receipts	Charges	Receipts	Charges	Receipts	Charges	
1	2	3	4	5	6	7	8	9	10
	Rs.	Rs.	Rs	Rs	Rs.	Rs	Rs	Rs	
Land Revenue	..	40		10		6		11	
Provincial Rates ..				2		5		1	
Post Office		1					...	..	
General Administration		11		12		13	..	12	
Police ...	4,33	25	4,29	24	4,33	24	4,33	24	
Education ...	27	12,10	27	12,08	27	17,70	2.	16,81	The increase both in revised and budget is due to the additional grants for improvement of primary education, for the appointment of additional Sub-Inspectors, for lower primary scholarships and additional remuneration of teachers in primary schools as explained in the body of the statement.
Medical		42		4		9	...	9	
Scientific and other Minor Departments		2		31		3		13	
Stationery and Printing		18		18	..	15		16	
Civil Works	2,94	5,78	2,94	5,37	2,94	8,77	2,94	9,52	The increase in the budget is for larger grants for feeder roads. The increase in the revised is for a grant of Rs. 12,000 to the Malda district for repairs of roads, to the Muzaffarpur District Board for the construction of Cess office building and other small grants.
Miscellaneous		48		4		5		3	
Total ...	7,54	19,75	7,50	21,50	7,54	27,27	7,54	27,04	
Net	12,21		14,00		19,73		19,50		

B S Press—995G - 30—26-2 1904—W. S. and other.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Council's Acts, 1861 and 1892.

The Council met in the Council Chamber on Saturday, the 4th April, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. L. P. PUGH, *Offg.* Advocate-General of Bengal.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

NEW MEMBER.

The Hon'ble MR. L. P. PUGH took his seat in Council.

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Earle; Rai Tarini Pershad, Bahadur; Mr. Inglis.*]

QUESTIONS AND ANSWERS.

THE PROVINCIAL EDUCATIONAL SERVICE.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked:—

Is the Government aware that in consequence of the present constitution of the Provincial Educational Service, many officers from the Subordinate Educational Service and some outsiders have been directly appointed to the 4th, 6th and 7th Classes of the Provincial Service, in supersession of the claims of officers in lower classes of that service? In view of the unsatisfactory constitution of the Provincial Service and the hardship done to the officers in lower classes in consequence thereof, will the Government be pleased to re-organise the Service in any way that may, in the opinion of the Government, be satisfactory and practicable?

The Hon'ble MR. EARLE replied:—

"Before the Education Department was last re-organized and the present Provincial and Subordinate Educational Services were created, the Officers of the Department, other than those of the Indian Educational Service, belonged to a single Educational Service. The division of officers into the two newly-created Services was made on the basis of the actual posts held by the various officers at the time of the re-organization, and it was never intended that officers, who were placed in the Subordinate Service, should not be eligible for promotion to the Provincial Service.

"The complaint referred to by the Hon'ble Member has arisen owing to the fact that the salaries of the first two classes of the Subordinate Educational Service exceed those attached to the seventh and eighth classes of the Provincial Educational Service. When, therefore, it becomes necessary to give promotion to an officer from the classes of the Subordinate Educational Service referred to, some officers of the Provincial Educational Service are necessarily superseded. This, however, is not a legitimate grievance, because, as explained above, such promotions were always contemplated.

"As regards the second complaint, it is true that several persons, not belonging to the Educational Service, have, within recent years, been appointed to the higher classes of the Provincial Service, and have, to this extent, retarded promotion. These persons were, however, appointed to posts for which no officers in the service of Government were eligible. Appointments of this kind are unavoidable.

"As stated by me at the last meeting of this Council, the question whether it is practicable to improve the prospects of the Provincial and Subordinate Educational Services is now under the consideration of the Lieutenant-Governor."

RAILWAY OR STEAM TRAMWAY AT BHAGALPUR

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Will the Government be pleased to state whether or not a scheme for the construction of a Railway or Steam Tramway on the roads from Bhagalpur to Deoghur *viâ* Bounsi and Dumka is still in its contemplation? If not, will the Government be pleased to state the reasons?

The Hon'ble MR. INGLIS replied:—

"No scheme for the construction of a Railway or Steam Tramway on the roads from Bhagalpur to Deogarh *viâ* Bounsi and Dumka is at present under the consideration of the Government.

"The late Lieutenant-Governor considered that a broad gauge line was not required. No proposals for a light railway have reached the Government."

[*Rai Tarini Pershad, Bahadur; Mr. Collin; Mr. Earle.*]

INADEQUATE SUPPLY OF WATER AT BHAGALPUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

Has the attention of the Government been drawn to the fact that the rate-payers in the town of Bhagalpur do not get adequate supply of water during a considerable portion of the year owing to the recess of the Ganges? If so, will the Government be pleased to take steps to remove this difficulty?

The Hon'ble MR. COLLIN replied:—

"Government is aware that difficulties have arisen from time to time in connection with the Bhagalpur water-works owing to the recession of the river. It has also been reported that there is considerable waste from the house-connections. The Commissioners of the Bhagalpur Municipality, who are primarily responsible in the matter, have taken the necessary action to maintain an adequate supply of water and to prevent waste. No application has been made to Government for assistance."

THE ZAMINDARI DAK CESS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Will the Government be pleased to state—

(*a*) How much was realized on account of the Zamindari Dâk Cess during each of the last five years.

(*b*) How much was spent for the purposes indicated by Bengal Act VIII of 1862 in each of the said years?

The Hon'ble MR. EARLE replied:—

"The receipts and expenditure of the Zamindari Dâk Cess during each of the last five years have been as follows:—

			Receipts.	Expenditure
			Rs.	Rs
1897-98	..	...	3,97,825	4,12,717
1898-99	..	...	4,02,575	3,69,932
1899-1900	...	...	3,94,629	3,58,836
1900-1901	...	...	3,31,876	3,72,853
1901-1902		...	3,03,818	3,56,733."

GRATUITOUS MEDICAL RELIEF BY DISTRICT BOARDS OF BHAGALPUR AND PATNA DIVISIONS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Will the Government be pleased to state—

(*a*) What amounts were spent by each District Board in affording gratuitous medical relief to localities affected with cholera and fever in the Divisions of Bhagalpur and Patna during the last three years; and

(*b*) What amounts, if any, were received as private contributions for such gratuitous medical relief during the said period?

The Hon'ble MR. COLLIN replied:—

"It has not been possible within the time given to procure full information to answer the questions.

[*Mr. Collin; Rai Tarini Pershad, Bahadur; Mr. Hare; Maharaja of Cossimbazar.*]

"As to the first part of the question, it appears that in the Patna Division the expenditure for gratuitous medical relief to localities afflicted with cholera and fever was as follows:—

			Rs.
1899-1900	...	...	5,157
1900-1901	...	...	17,489
1901-1902	...	...	12,480

"No information is as yet available for the Bhagalpur Division. When obtained, it will be communicated.

"As to the second part of the question, it is reported that no private contributions were received by the District Boards of the Patna Division for medical relief of cholera and fever patients during the period specified."

SUB-DEPUTY COLLECTORS AND PENSION RULES.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

Is the Government aware that Sub-Deputy Collectors render 5 or 6 years' service before confirmation? If so, will the Government be pleased to state whether under the existing rules such service is counted for pension? If not, will the Government be pleased to state why Rule 375 of the Civil Service Regulations (4th edition) should not be extended to the Sub-Deputy Collectors also?

The Hon'ble MR. HARE replied:—

"Under the existing rules, service in the grades of Sub-Deputy Collectors before confirmation does not count for pension. The subject has been under the consideration of this Government."

APPOINTMENT OF MEMBERS OF THE PROVINCIAL SERVICE TO SECRETARIAT POSTS.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Will the Government be pleased to state whether the appointments of Under-Secretaries to the Government of Bengal and Junior Secretaries to the Board of Revenue, are open to the members of the Provincial Executive Service? If so, will the Government be pleased to consider the advisability of appointing to such posts such members of that Service, who, after having satisfactorily worked as Personal Assistants to the Divisional Commissioners, have amply qualified themselves for the same?

The Hon'ble MR. HARE replied:—

"There is no bar to the appointment of a member of the Provincial Service of proved merit and ability to the post of Junior Secretary to the Board of Revenue or an Under-Secretary to the Government of Bengal; but these posts require very special qualifications, and, in the interest of the public service, Government can give no undertaking that will in any way fetter its selection of officers to fill these appointments."

PLAGUE MORTALITY IN CALCUTTA.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar, said:—

Is the Government aware that the daily bulletins disclosed an abnormal increase of plague mortality in Calcutta during the month of March, the

[*Maharaja of Cossimbazar; Mr. Collin; the President; Mr Earle; Babu Joy Gobind Law.*]

average being considerably higher than that of any similar month of the past quinquennium; and will the Government be pleased to state what precautionary, preventive or sanitary measures, other than segregation, which Government has definitely abandoned with the full approval of public opinion, have been adopted to cope with the disease in Calcutta itself and to thwart its spread to other localities, since it was officially declared that this City had been infected with plague; and further, will the Government be pleased to state the amount of money which has been expended from Provincial and Municipal Funds on plague preventive measures, and the character of the results obtained, judged by the light of statistics?

The Hon'ble MR. COLLIN replied:—

"The mortality from plague was greater in March last than in the corresponding month of 1902, but was less than in 1901. The figures are—

Deaths from plague in March, 1903			...	...	3,529
Ditto	ditto	1902	...	...	2,201
Ditto	ditto	1901	...	...	3,810

"Segregation for plague has not been enforced in Calcutta for the last four years. The precautionary measures are disinfection and, when this is not possible owing to the structure of the building, demolition in the case of huts.

"There is no examination of persons leaving Calcutta. It was found possible to enforce this on the railways only, and the results of such partial examination showed that it was not worth the trouble and inconvenience caused by it.

"The total amount of money expended in Calcutta on plague-preventive measures from 1897 to December, 1902, was Rs. 15,23,000. The results must be considered satisfactory, since no serious outbreak of plague has yet occurred in Calcutta as in Bombay and other places."

CHANGE IN THE ORDER OF BUSINESS.

The Hon'ble the PRESIDENT said:—"With the permission of the Council, I propose to make a slight alteration in the order in which we should take up the items in the list of business to-day. It will, I think, be more convenient if we take up the discussion of the Financial Statement after the Council has dealt with the motion which stands in the Hon'ble Mr. Earle's name. I will therefore call upon the Hon'ble Mr. Earle to make his motion now, instead of at the conclusion of the discussion on the Budget."

THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903.

The Hon'ble MR. EARLE, moved that the Hon'ble Mr. Pugh, the Hon'ble Mr. Slacke and the Mover be added to the Select Committee on the Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

The Motion was put and agreed to.

THE BENGAL FINANCIAL STATEMENT FOR 1903-1904.

The Hon'ble MR. COLLIN moved for the discussion of the Bengal Financial Statement for 1903-1904.

The Hon'ble BABU JOY GOBIND LAW said:—"It is satisfactory to note that in the Budget for 1903-1904 provision has been made for grants to the

Calcutta Municipality of Rs. 25,000 for re-survey of the added area, Rs. 35,000 as a contribution towards the scheme for the erection of Incinerators, and Rs. 50,000 for land for extension of Christian burial-grounds, and though the grants, the first two especially, do not appear to err on the side of liberality, it should be understood that during the first year the expenses are not likely to be heavy.

"It is also a matter for congratulation that that much-abused body, the District Board, which is expected to do a great deal with slender means is to come in for a share of special grants in the shape of five lakhs, for improving the communications, and two lakhs for the construction of feeder roads, and in the matter of Education Rs. 3,71,000 are provided for expenditure by District Boards on Primary Schools.

"There is a provision of Rs. 6,000 for commercial classes in training colleges and one of Rs. 4,500 for scholarships for industrial students sent to Europe, and it would be of interest to have some further particulars about the grants—in what manner they are to be utilised. In the case of scholarships, it would perhaps be of importance to provide that the education and training of the students should be confined to matters which would be of immediate use to them when they return.

"A sum of Rs. 40,000 was provided last year for Munsifs' Courts and residences, and I am glad to see a further sum of two lakhs has been granted for a similar object this year. It is extremely gratifying to observe that what has been a crying want for, I may say, a quarter of a century is at last in a fair way of being adequately met within a reasonable period of time.

"Included in the Budget is a provision of five lakhs for a dredger for the Circular and Eastern Canals, I understand for clearing the silt in the Biddadhari, near the Dhapa lock, which obstructs the boat traffic into the Calcutta Canals. I am also informed that a new canal is under construction from Bhamunghata to Dhapa for providing facilities for the boat traffic, and it is because the scheme has created a great deal of alarm amongst the neighbouring landholders that I desire to inquire whether the construction of the canal would have the effect of excluding salt water from the lakes, and making the very valuable fishery grounds useless for the purpose. It is apprehended that the destruction of the fishery would have a sensible effect on the fish supply of Calcutta and its Suburbs, and 40,000 persons would, it is said, be thrown out of employment.

"While on the subject of canals, I should mention the condition of Tolly's Nullah, which, in the absence of any measures being taken for its improvement, is gradually silting up, and it is only a question as to how soon it will completely cease to be navigable. A large rice trade is carried on through this canal, and, if the silt is not removed from time to time, it will in time form a complete barrier to the total extinction of the trade. Nor should we lose sight of the fact that a silted up and obstructed channel would be an undoubted source of insanitation, and therefore of grave danger to the health of the town and suburbs."

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"Before proceeding to offer remarks and suggestions relating to the Budget presented to the Council, I must first claim the privilege of congratulating the Government upon the financial prosperity of the past year and the forecast for the year before us. The cash balance of nearly 56½ lakhs, with which the year opens, can only be matter for congratulation when associated with the proposals of the Budget laid before us, and with the terse but pregnant sketch of the needs of this Province to which Your Honour gave utterance in the Imperial Council. The programme so earnestly set forth by Your Honour leads us to feel a confidence that the increased resources of the Province will be devoted with sound statesmanship to statesmanlike ends, while the magnificent resources at Your Honour's disposal lead us to hope that solid progress will be achieved during the next twelve months.

"Passing to specific matters arising out of the Financial Statement, I will offer a few observations on the question of improving the status of

[*Babu Chaturbhooj Sahay.*]

Sub-Deputy Collectors The allotment made for this purpose in the present Budget would be even more acceptable if the figures were less perplexing. It may be that my lack of professional knowledge in finance is at fault, but I confess to being unable to discover exactly what the allotment is. In a table given at page 3 of the Financial Statement, I find an item which seems to suggest that Rs. 1,00,000 is the sum allotted: on page 7, the figures against the item 'Charges of District Administration' suggest that the generosity of Government reaches the sum of Rs. 1,94,000: while a remark on page 19, in Appendix B, under head 'Land Revenue,' and minor head 'Charges of District Administration,' suggests that this generosity has shrunk to a mere Rs. 50,000. I should be glad to be definitely informed on this subject. Whatever be the allotment, it will be well spent if it succeeds in improving the status of a branch of the service whose prospects are sadly depressed. The Sub-Deputy enters the service with the same qualifications as the Deputy Collector. Both classes qualify by passing the same examination, the latter class of officer being recruited from those candidates who obtain higher marks at the examination. The difference may often be infinitesimal at the examination, but becomes enormous when once service is entered. The work done by the two classes is the same, but the Deputy begins on a salary which the Sub-Deputy can only reach after many years of service, if promotions follow a normal course, while he has to be content to commence on exactly half the pay of his more fortunate co-examinee. Promotions, however, and here lies the main grievance, do not follow a normal course.

"What is now called the 'Provincial Subordinate Civil Service' was a creation of Sir George Campbell, who was also the author of the system of taking men into what is now called the Provincial Civil Service by open competitive examinations. It was laid down in a Government Resolution, dated 20th March, 1872, that members of the former service should be regarded in course of time as fit to be appointed to Deputy Magistracies, and as a matter of fact Sub-Deputy Collectors were promoted to the grade of Deputy Collector in Sir George Campbell's time, and sometimes with no little rapidity. I may cite the case of Babu Kumud Nath Mukerji, who was appointed Sub-Deputy Collector in November, 1874, and was promoted to be Deputy Collector in July, 1878.

"The system of recruiting the Subordinate Civil Service and the Provincial Civil Service underwent an important change in Sir Charles Elliott's time. The test for selecting men for Sub Deputy Collectorships was made the same as the test for selecting men for Deputy Collectorships, and for some time, *i.e.*, down to the year 1894, Sub-Deputy Collectors were allowed to attend the examinations for admission into the Provincial Civil Service and to enter the latter service by that door. In that year four Sub-Deputy Collectors, among whom were two Biharis, viz., Babu Rama Ballabh Missir, M.A., and Maulvi Habibur Rahman, B.A., were promoted to Deputy Collectorships on the results of the examination, as stated in a Government Resolution, dated 16th May, 1894, the following extract from which is pertinent:—

'The following Sub-Deputy Collectors who passed 5th, 9th, 10th and 18th, respectively, at the recent examination, will now be promoted to officiate at once as Deputy Collectors.'

"Sub-Deputy Collectors came to be excluded from competitive examinations in 1895, but this caused no practical hardship on the whole down to 1896. A Government Resolution of 20th April, 1896, had the following:—

'The policy of promoting Sub-Deputy Collectors to officiate as Deputy Collectors has been adhered to During the year 1893-94, 16, during the year 1894-95, 28, and during the past year 1895-96, no less than 32, Sub-Deputy Collectors have received promotion to the grade of Officiating Deputy Magistrate and Deputy Collector.'

"But this happy state of things has not continued. There were only three promotions in 1896-97, only one in 1897-98, none in the two following years, eight in 1900-1901, ten in 1901-1902, and three in 1902-1903.

"The gravemen of the complaint shortly put is this: that the Subordinate Civil Service has virtually ceased to be the chief recruiting ground for the Provincial Service.

"It may not be out of place to suggest that some fixed principle be adopted in promoting a Sub-Deputy to a Deputy Collectorship, and that a certain

proportion of vacancies in the ranks of Deputy Collectors be laid down as reserved for Sub-Deputy Collectors. As regards the promotions of Sub-Deputy Collectors to the Provincial Civil Service, not only should they be definite and regular, but the choice of officers recommending the promotions should be based on considerations of seniority of service, coupled with those of merit and rapidity in passing the departmental examinations."

The Hon'ble the PRESIDENT said:—"I am sorry to interrupt the Hon'ble Member. I would ask him to consider what immediate connection there is between the governing principle in the promotion of Sub-Deputy Collectors and the grant made in the Budget of 1903-1904 for the improvement of their status."

The Hon'ble BABU CHATURBHOOJ SAHAY explained:—"I bow to Your Honour's decision. My intention was to show that while the grant in the Budget for Sub-Deputy Collectors is under consideration, the question of promotion which would naturally affect the Budget should be discussed."

The Hon'ble the PRESIDENT said:—"I think the Hon'ble Member would gain his purpose more effectively if he addressed the Government separately at a more fitting moment. This is hardly the moment to discuss abstruse questions at a time when our attention is directed to the Budget. The Government will be very glad to hear what he has to say in another manner and at another time."

The Hon'ble BABU CHATURBHOOJ SAHAY continued:—"I will pass on to another subject with Your Honour's permission, and that is in connection with the question of the re-grading of Munsifs. While desiring to express the deep gratitude of the community for the action taken by Government in the matter of the re-grading of Munsifs, I beg leave to make a suggestion, which, if adopted, will enhance the value of the measure. The work of some Munsifs includes the trial of cases involving sums reaching Rs. 2,000. The Munsif here joins hands with the Sub-Judge, and I would therefore venture to suggest that either an additional grade of Munsifs or an additional grade of Sub-Judges, on a salary of Rs. 500, be created. This would go a great way towards rendering the Sub-Judicial Service more attractive.

"But while the Munsif's interests are being considered, I would put in a plea for the humbler but no less necessary Amlah. The ministerial staff of the Munsif's Court consists of officers who are always underpaid and overworked. The matter has frequently been taken into consideration, but so far not much has been done for the Province as a whole. As matters stand, the consequences are of no trifling character. The low pay does not attract efficient men, and the heavy work results in ever accumulating arrears which press heavily upon the interests of suitors. I would beg most earnestly that Your Honour will take into consideration the advisability of strengthening this class of officers and of granting them better pay and prospects.

"Before leaving the subject of the Judiciary, I am tempted to offer a remark on the Judicial branch of the Indian Civil Service. The needs and exigencies of the country demand that officers of ripe experience, sound judgment and marked ability should be appointed as District Judges. But this branch of the service is not sufficiently attractive to draw to itself men with these high qualifications. I venture, therefore, in the interests of the administration of justice, to urge upon the Government the necessity of rendering this service more attractive.

"I do not intend to occupy the time of the Council by speaking at length on the subject of the Police. Remarks on this point would be either unnecessary or premature, in view of the inquiry at present being conducted by the Police Commission. But I wish to draw Your Honour's attention to a particular statement in the Government Resolution on the Police Administration

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for the year 1901. With reference to bad livelihood cases it is stated in the Resolution that in the Patna Division, which is stigmatised as the worst in this respect (and to which I have the honour to belong), 1,318 cases were instituted, out of which only 585 were tried in the villages of the accused persons, and that out of 1,042 persons, from whom security was demanded, only 44, or 4 per cent., were so fortunate as to produce security which was accepted. Both statements furnish food for reflection, and the second seems to me particularly suggestive. Why should the required security not have been furnished in so vast a proportion of cases? The public will be driven to conclude either that the sum required was prohibitive in amount, or—and this seems to be more likely—that a power was operative behind the scenes to prevent the furnishing of security, a power whose length of arm and strength of muscle effectively terrorise those who might otherwise be willing to render assistance to men who stand in need of it. I trust that Your Honour will take steps which may effectively put a stop to this deplorable state of things.

"The revenue under Stamps is expected to show an increase of 3 lakhs over the Budget Estimate for the last year, and an increase of three quarters of a lakh over the Revised Estimate. The steady rise in the revenue under this head from year to year is, in the absence of definite information as to its cause, not altogether encouraging. Among other things it may point to increasing litigation, and it may also point to a growing indebtedness of a certain section or sections of the community, if the increase is partly due to the sale of stamp-papers required for the transactions of borrowing and lending. I beg leave, therefore, to suggest that inquiry be made into this matter with a view to ascertaining—

(*a*) the extent of the sale of stamp-papers for the purpose of securing loans;

(*b*) the class of people who buy them;

(*c*) the class of people from whom the money is borrowed.

"An inquiry of this kind may possibly throw a valuable sidelight upon the economic condition of our agricultural population.

"Turning now to the question of Excise, I notice that the net increase of revenue under this head for 1901-1902 over the figures for the previous year was 3¾ lakhs, the largest increase on record till then. That record has since been surpassed, and the results of settlements for 1902-1903 show an increase of income, amounting to no less than 4½ lakhs, over the income of the preceding year. These figures are simply phenomenal, and call for notice. The increase is explained in various places of the Government Report for 1901-1902, as due to better settlements and increased consumption of liquor. The following extract from page 10 of the Report bears out my statement:—

'The increase was largest in Patna (Rs. 14,542), due to better settlements and increased consumption of distillery liquor on account of competition among the vendors. Hazaribagh comes next with an increase of Rs. 6,452, due to the settlement of distillery shops at enhanced fees and to increased consumption on account of good crops. The increase of Rs. 5,018 in Saran was due to increased consumption, owing to the reduction in the retail price of *khasia*, or weak liquor. In Darbhanga the consumption shows a further rise of 865 gallons L. P., due to competition among the vendors and the manufacture of weak liquor at 86° U. P. to meet the local demand.'

"This extract shows clearly enough that the principle declared to lie at the base of the Excise policy of Government has not been followed in Bihar, whatever may have been its fate elsewhere. That principle has always been understood to mean that a maximum income should be raised out of a minimum consumption, and that while aiming at a lucrative revenue out of Excise duties, Government would take pains to see that increased consumption of liquor did not result from its policy. An unpleasant feeling will be engendered in the mind of the public, that increased consumption of liquor is the real benefactor to Government revenues under this head. I venture, therefore, to draw Your Honour's attention to what must be regarded as a serious matter, and trust that Government will do what it can to check the evil of drunkenness which, to judge from the Government Excise Report, seems to be on the increase among the lower orders in this Province.

[*Babu Chaturbhooj Sahay.*]

"At the risk of seeming somewhat quixotic, I would place before Your Honour a proposition relating to Jail Administration, which I believe to be of importance. I venture to think that the inmates of prisons should be regarded as not only entitled to healthy conditions of physical life, but also as calling for some effort to improve their moral and spiritual condition. This principle is recognised in England, and to some extent in India also, so far as relates to European prisoners. I would suggest its extension to prisoners of all classes. Persons especially chosen for the work might be engaged to instruct the prisoners by means of sermons and homilies, and places and times might be set apart where and when those prisoners who wish to do so might have the opportunity of saying their prayers each in the way of his inherited creed. I would respectfully urge that incarceration should be not merely retributive, but corrective; that the solitude and the discipline of prison life not infrequently induce a state of mind which a slight impulse may turn into genuine repentance; and that advantage should be taken of every possible opening for the reclamation of evil-doers. I am confident that Your Honour will treat my suggestion with sympathetic consideration.

"The matter on which I have just spoken naturally brings before the mind the thought of bodily health and the affording of relief to bodily disease. In this connection, I venture to say that the paucity of dispensaries in the rural districts of Bengal is a matter that calls loudly for the attention of the Government. In the interior of the districts no medical relief can, under existing conditions, reach the people in times of suffering. Surely it is not too much to say that public money could not be better spent than in devising means whereby medical relief may be brought within the reach of the suffering poor throughout the Province. I would suggest that a dispensary be established at or near every thana in the rural districts, and I am entitled to regard my suggestion as distinctly modest in view of the fact that the Inspector-General of Civil Hospitals is in favour of a wider multiplication of dispensaries than I am praying for.

"The question of Dispensaries leads me to the question of Plague expenditure in Bihar. As the Goverment is well aware, plague is working frightful havoc in the Bihar districts, and the efforts and resources of local officers who are doing their best to combat this formidable foe stand in urgent need of assistance from Government. I would respectfully urge that this is not the time for Government to wait till formal applications are sent in by District Boards and Municipalities. Government should take the initiative, and, after ascertaining the requirements of the infected areas, should extend a helping hand to the same. The appeal for funds by Mr. Cumming, the District Magistrate of Patna, shows to what straits he is put in his efforts to cope with the ravages of plague in Bankipur. Your Honour's note to Mr. Growse, the District Magistrate of Saran, while evincing an anxious solicitude for the afflicted people of that district, leads us to feel a hope that under Your Honour's Government the hands of District Boards and Municipalities and officials will be strengthened by Provincial contributions from public funds. I make my appeal with the greater confidence in view of the fact that there has been a considerable reduction in Plague charges due to the abolition of Plague Camps.

"There are certain matters connected especially with Bihar to which I would respectfully invite Your Honour's attention:—

"(*a*) There is not a single Bihari, Hindu or Muhammadan in the higher ranks of the Opium Service. This is a Service, as Your Honour knows, is especially connected with Bihar, and the whole of the Opium Revenue in Bengal is derived from that part of the Province. It is not unnatural, therefore, that the Bihari should indulge the aspiration of serving in the graded branch of the Opium Service, and I would ask Your Honour to consider our request that when next this Government nominates an Indian candidate to a vacancy in the higher ranks of the department, it will be graciously pleased to bestow its nomination upon a Bihari, be he Hindu or Muhammadan, who may reasonably be considered fit for this appointment. I trust that Your Honour will not consider this request unreasonable or unworthy of consideration.

[*Babu Chaturbhooj Sahay.*]

"(*b*) The second matter I wish to place before Your Honour also takes the form of a request. The establishment of a Medical College in the centre of Bihar is a great desideratum, and that principally for two reasons,—first, that a supply of first rate medical assistance for the growing wants of the people of Bihar may be accelerated; and, secondly, that a new and desirable outlet may be provided for the better intellect of the community. As matters stand, the educated Bihari has to choose between Government service and the legal profession. The medical profession is practically out of the question, for the distance of Calcutta from Bihar districts, the lack of a proper system of hostels for Bihari students in Calcutta, the greater expense of living in the metropolis, and other considerations of a like nature, practically prevent Bihari students from joining the Calcutta Medical College. But the province is growing in culture and importance, and with this growth there naturally comes an increasing desire to find fresh outlets for legitimate ambitions. Bihar certainly deserves the fostering care of the Government; its historical and political character, its geographical facilities, its commercial and fiscal importance, claim for it no small consideration from its Rulers. I would urge upon Your Honour the advisability of providing for the people of Bihar opportunities of entering every department of professional life. We have a first-grade Arts College and Law classes; we have an Engineering School which may soon be a College; we are likely to have an Agricultural College at Poosa, and if Your Honour will complete the work of your predecessors, Sir George Campbell and Sir Richard Temple, and give us a Medical College or the beginnings of one, we shall be well equipped for the battle of life. I am hopeful enough to believe that a new era is dawning upon my province, and I trust that Your Honour will hasten its dawn, and enable us to be in no way behind other provinces in the requisites for a vigorous and independent life.

"(*c*) I alluded a moment ago to the Bihar School of Engineering, for the establishment of which the people of my province are sincerely grateful to Government. I would now beg leave to urge that the School be raised to the status of a College. Proposals for so raising it have been made, and I trust that they will be carried through. In answer to a question put by me at a Council meeting the other day, I was given to understand that a grant has been made by Government for the equipment of the School with the necessary requisites for an efficient laboratory and plant, and if this has been done, there seems to be no reason why the development of the School into a College should be any longer delayed. It is most desirable that in the matter of professional education Bihar should be self-contained.

"In concluding my remarks on the Financial Statement, I wish to turn for a moment to the question of Agriculture and Irrigation. The Agricultural prospects of the country depend at present entirely upon seasonable and well-distributed rainfall. The uncertainty of the rainfall has, under the benign rule of the distinguished Statesman who presides over the destinies of the Indian Empire, brought into existence the Irrigation Commission which is inquiring into the wants and requirements of the whole country, and whose labours will soon be brought to a close. The Commission has visited Bihar, and I had the honour of giving evidence before it. It has inquired into the necessity of having Irrigation works for the Bhabua Sub-division, which is the most exposed to drought, as I had the honour to point out to the Council last year. The inquiries of the Commission have been followed by an inquiry on the part of local experts into the particular nature and feasibility of the Irrigation works that can be provided for that sub-division. I may be allowed to renew my appeal and repeat my request that the present Government, which has as its head an Administrator possessing a full knowledge of the locality and of the especial need for artificial Irrigation works, will take up the matter with the earnestness that the importance of the subject demands, and will work out the salvation of the people of that sub-division.

"As regards Agricultural Reform in its various branches, the subject is receiving the best attention both of the Government of India and of the Government of Bengal, as the proceedings of the Supreme Council at its last meeting clearly shew. We may hope, therefore, that better days are in store for the people of this country.

[*Babu Chaturbhooj Sahay; Maharaja of Cossimbazar.*]

"Before taking my seat, I beg leave to offer a suggestion to Your Honour regarding the procedure of this Council on the Financial Statement. My suggestion is that a day should be fixed before the presentation of the Budget, on which proposals relating to proper subjects and methods of expenditure might be invited. Such proposals might, if approved of, find a place in the Budget. Under the existing system we do not make the acquaintance of the Budget until it has attained finality, and any remarks or suggestions which may be submitted for consideration in connection with it, lose what force they may have by the mere fact that in most cases they cannot, from the nature of the case, produce any immediate result. The possibility of a remote result being achieved is further diluted by the lapse of time, and it may often happen that criticisms and suggestions, which under other circumstances might be useful and productive, are rendered barren and inoperative. I humbly commend the matter to Your Honour's attention."

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar, said :—"It is impossible for a non-official Member to look over the figures in the Budget and the policy which they embody without offering to the Government his congratulations. We may not be able to felicitate the Government on the happy settlement of large and difficult financial considerations with which the Imperial Council deals, but we have before us important issues which affect the good government of the Province and the happiness of its teeming millions, and, Sir, I am bound to say they have been dealt with in this Budget in the spirit of fairness and with an earnest desire to do justice to all interests which challenge our unhesitating approval.

"The Budget which we are now considering will be the last under the Provincial Contract made in 1897 and which has been extended for special reasons for two years. The settlement of the Provincial Contract has been always a source of fruitful controversy between the Provincial and Imperial Governments. Sir, you rightly interpreted the popular sentiment on the subject when you said from your place in the Imperial Council the other day that the Province looked forward with the greatest interest to the settlement of the coming Provincial Contract. This Council endorses the hope, which you so eloquently expressed, that when the final decision of this important matter has been arrived at by the Government of India, it will be found that 'Bengal has obtained a larger share of the revenue under the divided heads and above all things a greater permanancy of allotment.' Sir, ours is a progressive Province, the centre of all those forces which contribute to the culture and enlightenment of not only this Province but of vast areas lying outside it, and the resources available to the Government ought to be in keeping with our growing wants. We thankfully note that the Government of India have in their generosity from time to time aided the Provincial Government and have placed funds at its disposal for various useful and important purposes. That the Government of India should have done so is, I venture to submit, proof positive that the allotments made under the Provincial Contract were not adequate to meet the growing wants of our progressive Province, and in this connection I feel that I must express the gratitude of my countrymen to Your Honour for your noble appeal from your place in the Imperial Council for a just and adequate recognition of the financial claims of this Province when the Contract is made next year.

"Your Honour set forth in review the various needs of the Province and how it is impossible to do justice to them with the funds at our disposal. Among these matters there was one in which I may be said to feel a personal interest and to which Your Honour referred in the course of your speech, viz., the clearance and the dredging of the Bhagirathi. I thankfully admit that a sum of five lakhs of rupees has been provided under this head in the Budget Estimate of 1903-1904. I am no expert and cannot undertake to say whether the amount provided will be sufficient for the completion of the work. But I am sure that the Government having taken the work in hand will see it through and effectively provide for the clearance of a stream which is the high road for trade and commerce to several districts of Bengal. The decline of the trade of the important district of Murshidabad, which was once the seat of the capital of the province and might be regarded as the cradle of British power in India,

was largely due to the silting up of the Bhagirathi and the postponement of those operations, the need of which has now been happily recognised by the Government.

"The silting up of the Bhagirathi must also be considered from another point of view. The sanitation of the place has greatly suffered; and though the introduction of a supply of pure water has done something towards the improvement of the sanitary condition of the town of Berhampur, the district unhappily continues to be a prey to the occurrence of malarious fever which counts its victims by thousands and inflicts nameless sufferings upon many more thousands. If the preservation of the health of the people is the supreme concern of Government, as I venture to think it is, the prosecution of the dredging operations which Your Honour's Government has undertaken becomes a matter, I might almost say, of paramount importance.

"One of the happy features of the Budget is the continuity of Policy which it displays. Lieutenant-Governors come and go; Secretaries of Government are translated to higher spheres; but the beneficent policy which marks the measures of Government continues its even course. For the last few years the attention of Government has been drawn to the urgent necessity of improving the status of the Provincial Service in both its branches. Something has been done in this direction and the country gratefully acknowledges it. But much more yet remains to be done both as regards the Provincial Service and other cognate services, the status of which remains unchanged and unimproved. The Government is sensible of its obligations in this respect. You, Sir, were pleased to observe that the prospects of the Subordinate Judicial Service and of the Educational Service in Bengal, both Provincial and Subordinate, are far from good, and it is admitted that both require reform which only awaits the allotment of funds. It is evident from the above that you are prepared to improve the status and position of these Services, if only the necessary funds were forthcoming. I can only express the hope that funds will be forthcoming and that the much-needed reforms in regard to both these Services will be brought within the range of practical politics by the allotment of larger funds under the approaching Provincial Contract.

"I rejoice to learn that before long an improvement may be announced in the prospects of the Subordinate Executive Service. I find that a sum of Rs. 70,000 has been allotted in the Budget Estimate for the improvement of the status of Sub-Deputy Collectors. This follows as a necessary corollary to the improvement of the status of the Provincial Service. The scheme, I understand, now awaits the consideration of the Government of India. I trust the necessary sanction will soon be forthcoming and the grievance of this deserving class of public servants will have become a thing of the past.

"A sum of two lakhs of rupees has been provided for Munsifs' Courts and residences. I should like to know how much of this amount is to be devoted to the construction of Munsifs' quarters. Will the Financial Secretary be good enough to let me know how many Munsifs' residences have been erected up till now and their total cost?

"I find that a sum of two lakhs of rupees has been provided for the residences of Government officials. I should like to have some details about the class of officials who are thus to be provided for. We have heard a great deal about the laws' delays, specially in reference to the High Court; and last year provision was made for the appointment of a Puisne Judge. But the Judge was not appointed. The public would like to have some explanation of the fact fuller than what has been given in the note. No less an authority than one of His Majesty's Judges, the Hon'ble Mr. Justice Rampini, speaking from his place in the Imperial Council, observed that the number of our Subordinate Judges is not equal to meet the requirements of litigation, and that unless a further temporary increase in the number of Subordinate Judges is promptly granted as need arises, arrears will increase so rapidly as to exceed the powers of the Courts to deal with them. The situation thus described by a high and competent authority is grave and should be remedied, specially regard being had to the fact that the administration of justice in these Provinces leaves a handsome balance which, I venture to submit, should in the first instance be devoted to the improvements of the efficiency of our system of justice.

[*Maharaja of Cossimbazar; Dr. Asutosh Mukhopadhyaya.*]

"Under Education the Financial Secretary remarks: 'There has been an apparent failure to expend Rs. 12,28,000.' Will the Hon'ble Member be so good as to explain the cause of this failure? For, if there is one subject more than another in regard to which the public are anxious that the whole of the grant should be spent, it is the grant in connection with Education; for the fact remains that, having regard to the needs of so vast a population as that of Bengal, the Educational grant is deemed inadequate, and the Government felt itself under the need of devoting a good portion of the grant which it received from the Government of India to the promotion of Education. For various reasons public attention has been largely drawn to the Educational problem. It is one of those questions to which His Excellency the Viceroy pays special attention, and the public demand is for more money being spent upon Educational purposes. At such a time it must be a matter of regret that the whole of the grant under Education could not be spent in 1902-1903.

"I am glad to note that the grant to the District Boards has been renewed this year, and that the sum of Rs. 50,000 has been provided under this head in the Budget Estimates. Though this is much less than what was granted last year, viz., Rs. 1,50,000, still it indicates the acceptance of the principle that these grants will form a permanent recurring charge in the Provincial Budget. I trust that the Provincial Contract which is to be made next year will enable the Local Government to render substantial help to the District Boards from year to year.

"Once again I desire to offer my congratulations to the Government on the Budget which has been laid before us."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"It is customary on the occasion of the annual discussion of the Financial Statement in this Council to offer our congratulations to the Hon'ble Member in charge of the Financial Department, and I have no desire on the present occasion to depart from that practice. It would be idle to affirm that the allotments which have been made under the various heads will give satisfaction to everybody, but it must be admitted by the most unfriendly critic that the statement bears unmistakable evidence on the face of it of a desire on the part of Government to recognise the existence of pressing needs in various directions and to make provision for their removal as far as practicable.

"I rejoice to find that the substantial sum of two lakhs has been set apart for the accommodation of Munsifs and their Courts, and I trust that at the end of the next financial year, Government will not only tell us that the whole of this amount has been actually expended, but also make further provision in the same direction.

"I further rejoice to find that it is proposed to spend over three lakhs of rupees for the construction of a Surgical ward and of a Pathological block in the Calcutta Medical College Hospital, and I trust that this sum also will be actually spent during the year.

"These are all grants which will enable Government to carry out reforms which are urgently needed and which will be thankfully welcomed; but I must not omit to invite attention to a smaller grant of a very different character, namely, the grant of Rs. 60,000 for the preservation of the *Kanarak* temple and of the *Rhotas* fort and palace. This desire on the part of Government to preserve our ancient monuments is highly appreciated by every truly cultured man, and I trust that the policy which has been recently inaugurated will be persistently followed.

"With your permission, Sir, I shall now pass on from these general observations to the detailed examination of the subject in which I am specially interested, namely, the subject of Education. I regret to say that in this matter there is substantial ground for complaint. I say so with great deliberation, and I shall endeavour to prove my statement to the fullest extent. It will be in the recollection of Hon'ble Members that last year the Government of India found it possible to place at the disposal of the Government of Bengal a sum of ten lakhs of rupees to be spent for Educational purposes. I took the liberty of referring to considerations which, in my judgment, ought not to have been overlooked when the details of the distribution of this sum

[*Dr. Asutosh Mukhopadhyaya.*]

came to be finally determined. I pressed upon the notice of Government the necessity of improving the status of Educational officers, but I was assured that the claims of Primary Education were paramount, and that the Imperial grant must be utilised in the first instance for the strengthening and promotion of Primary Education. I would have loyally accepted this decision of Government if it had been carried into effect, but let us examine for a moment the actual facts.

"I find it stated in paragraph 5 of the Explanatory Notes on the present Financial Statement that a sum of over five lakhs of rupees have been actually saved out of this Imperial grant of ten lakhs. But this is not all. Part at least of this Imperial grant of ten lakhs has been unquestionably spent for ordinary purposes which ought to have been met out of the ordinary Provincial grant for Education. I base these observations upon the facts contained in Statements A and B laid on the table in answer to the question put by my hon'ble friend Babu Chaturbhooj Sahay. It seems to me inconceivable how there can be any justification for utilising this special Imperial grant of ten lakhs for purchase of rice for the boys of the Alipore Reformatory School, or for gas lights in the Eden Hindu Hostel, or for the construction of book-shelves in the Library of the Patna College.

"In order to enable the Hon'ble Member in charge of Education to meet my arguments, I will formulate the principles which, I maintain, ought to be followed with reference to the special Imperial grant of ten lakhs. In the first place, I maintain that this grant of ten lakhs ought not to induce the Government of Bengal to reduce, what I may call, the normal Provincial grant for Education. In the second place, I maintain that an effort ought to be made to spend the whole of these ten lakhs for Educational purposes during the year. In the third place, I maintain that if the whole of it is not spent during the year and is allowed to lapse, in the following year the Provincial grant ought to show a corresponding increase. I will illustrate briefly the principles I have enunciated.

"Assume that the annual Provincial grant for Education is thirty-two lakhs, and that the Government of India in a particular year makes an Imperial grant of ten lakhs for the promotion of Education. Is there any justification on the part of the Local Government to spend less than forty-two lakhs? I submit there can be no justification whatsoever. Nobody has suggested that the Provincial finances are unable to bear the burden of thirty-two lakhs a year for Education. Why should then Government, as soon as it receives the Imperial grant, proceed to effect a saving out of the Provincial grant and spend the amount so saved for purposes other than Educational?

"Then, again, I submit that it is equally incontestable that the whole of the Imperial grant ought to be spent for the purpose for which it was made. If, by reason of any unforeseen circumstances, it cannot be spent during the year, and consequently lapses, the Provincial grant for the following year should in all fairness be correspondingly increased. Look at the matter from what point of view you will, the substance of the transaction is that fully five lakhs out of the ten lakhs which was placed at the disposal of the Government of Bengal by the munificence of the Government of India has not been spent for Educational purposes, and has been allowed to lapse, with the inevitable consequence that it will be improperly appropriated for purposes other than Educational. I desire, Sir, to enter my most emphatic and unqualified protest against this action of the Government of Bengal.

"I find, Sir, that the Government of India has this year again made another grant of ten lakhs of rupees for Education, and I find from the Budget that it is proposed to spend the whole of this sum along with the normal Provincial grant of thirty-two lakhs. I trust, Sir, we shall not be told at the end of the year that Government has found it impossible to spend the whole of the forty-two lakhs for Educational purposes, and that it has effected a saving of five lakhs. For whether we say that the whole of the Provincial grant has been spent and a saving of five lakhs has been effected out of the Imperial grant, or whether we say that the whole of the Imperial grant has been spent and a saving of five lakhs has been effected out of the Provincial grant, either position seems to me to be indefensible, if the so-called saving is

applied for purposes other than Educational; if such a contingency repeats itself, the Government of India will be perfectly justified in saying 'we never intended that you should reduce your normal grant by reason of our Imperial grant, and if you do not know how to spend the Imperial grant, it must be reduced.'

"This brings me, Sir, to the consideration of the question which I pressed upon the notice of Government last year, namely, the improvement of the status of Educational officers. I venture to think, Sir, that when it was found that the paramount claims of Primary Education would not absorb the whole of ten lakhs, a portion, at any rate of the surplus, might have been applied for the improvement of the status of the Educational Service. I pointed out, Sir, that the claims of the Education Department have been systematically ignored, and that its interests have been subordinated to those of the other departments of the public service. I pointed out further that the Government holds out better prospects to our young men in the Judicial and Executive Services than it does in the Educational Service, and that the inevitable consequence has been that our most distinguished graduates prefer the Judicial and the Executive Branches of the Service.

"The Hon'ble Member who was in charge of Education last year did not and could not controvert these statements, but he maintained that the work of a member of the Educational Service cannot be compared, as regards difficulty, anxiety and responsibility, with that of an officer of the Judicial or Magisterial Service. I confess, Sir, I was surprised to hear this view maintained by an officer of marked ability and conscientiousness like the Hon'ble Mr. Macpherson. I entirely dissent from this view, and I have no hesitation in submitting that the status of the members of the Provincial Educational Service ought not to be lower than the status of the members of the Provincial Judicial and Executive Services.

"My own opinion upon this matter may be worth nothing, but I am fortified in my views by the opinions of men whose authority cannot be questioned. So far back as 1854, Sir Charles Wood, in the great Education Despatch of 1854, said: 'Our wish is that the profession of school masters may for the future afford inducement to the natives of India, such as are held out in other branches of the public service.' The policy so clearly enunciated was affirmed in the Education Despatch of 1859 from Lord Derby, in the Education Despatch of 1870 from the Duke of Argyll, and in the letter of the Government of India upon the Report of the Education Commission of 1882. I do not propose to trouble you with extracts from these despatches, as they have no longer to be sought out in musty Blue-books, but may be found in the valuable History of Bengal under the Lieutenant-Governors by the Hon'ble Mr. Buckland. I would only take the liberty to read to you the eloquent words of His Excellency the Viceroy in one of his Convocation addresses: 'I turn to these young men who are going to be teachers of others. I pray them to recognise the gravity and responsibility of their choice. Rightly viewed, theirs is the foremost of sciences, the noblest of professions, the most intellectual of arts. The first thing I would have you remember is, that you are not entering upon an easy or an idle profession. It is *the most* responsible of all.'

"I fervently hope, Sir, we shall hear no longer, not at any rate in this Council, that the work of a member of the Educational Service is less responsible than the work of a member of the Provincial Judicial or Executive Service, and that consequently his remuneration ought to be less.

"I earnestly invite the attention of the Government to the question of the status of the members of the Educational Service; the initial pay is much lower, the prospects of promotion more remote, and the maximum salary also is smaller than in the Executive and Judicial Services. The remedy which I would suggest would be first to raise the pay of the lowest grade to the same scale as in the Provincial Executive and Judicial Services, and, secondly, to increase the number of appointments in the higher grades.

"There are two minor points in connection with Education to which I desire to make a brief reference. On turning to heading 22, I find that the

[*Dr. Asutosh Mukhopadhyaya; Rai Tarini Pershad, Bahadur.*]

Government spends annually Rs. 9,000 for the maintenance of Law Colleges. It has been pointed out by the Universities Commission that the provision which is made for law teaching in the Government Colleges in the mufassal is extremely inadequate, and I would suggest, for the consideration of the Government, either that the provision should be made adequate, or that these nominal classes should be abolished.

"The other matter to which I wish to draw your attention is the provision made for an Assistant Director of Public Instruction. I have not been able to find any indication as to the precise duties and functions of this new officer. But I would venture to hope that it will now be found possible to carry out more satisfactorily the scheme which the Government has undertaken for prescribing text-books for our schools. The manner in which that scheme has been worked recently, has caused a great deal of complaint and dissatisfaction which, I regret to say, is unfortunately well founded. The manner in which these books have been approved has been extremely unsatisfactory, and the result has been so deplorable that I decline to believe that the Director of Public Instruction could have exercised any real personal supervision over this matter. The books which have been approved are many of them of such a character that they would not be tolerated for a moment if they were not positively forced upon the authorities of schools. They are originally submitted in English and subsequently translated into vernacular, the result being that the vernacular which is placed in the hands of students is half Anglicised, half Sanskritised. The consequence is that the genuine vernacular text-book has been swept out of existence and has been replaced by manuals which may benefit a particular firm of publishers, but certainly do not benefit the students. I am further surprised to find that these precious manuals are to be forced upon all schools, and I have in my hands a Circular marked *Confidential* for the attainment of this laudable object. Why anything in matters Educational should be labelled *Confidential* I cannot conceive, except it be this: that it is obviously unreasonable and will not stand the test of criticism. I hope, Sir, that the new Assistant Director of Public Instruction will either look into the matter himself, or render it possible for the Director to scrutinise the matter with the care and caution it deserves."

The Hon'ble Rai Tarini Pershad, Bahadur, said:—"I feel no hesitation in calling it a Prosperity Budget in the true sense of the term, and I must congratulate the Government and the Hon'ble the Financial Secretary on placing such a Budget before us. It not only shows a good administration in the past, but also promises such in future. It is sometimes said that it is idle to make any suggestion in Council about the Budget, which is a cut and dried thing carefully framed by the Hon'ble the Financial Secretary, who is thoroughly alive to his responsibility in the matter, and considered by the Local Government and passed by the Government of India. But I do not share in such feeling, as I have very often found Government giving effect to the suggestions made on such occasions by the non-official Members of the Council, and I sincerely believe that if we can convince the Government that our grievances are just and reasonable and within its power to remedy them, it will do so. I therefore venture to notice some of the salient items of the Budget now placed before us.

"Perhaps I would be charged for partiality to Bhagalpur in making my appeal on behalf of the Bhagalpur Division for several remedies, but since 1892 Bhagalpur has had no opportunity of sending its representative to this Council till September last, when I had the honour of being returned by the Bhagalpur public as their representative to represent its grievances to the Council. This, I trust, will be deemed a justification of my action in this connection.

"Looking at page 19 of the Budget, I find that under the head 'Land Records and Agriculture,' the cost of superintendence has been estimated at Rs. 55,000 as against Rs. 44,000 in the Budget for 1902-1903. There was a sub-head in that Budget 'Establishment of Agricultural Banks,' for which a sum of Rs. 15,000 was allotted; but the Budget under discussion shows that the sub-head 'Superintendence' included that sum of Rs. 15,000. In the present Budget there has been no specific allotment for Agricultural Banks, but the

amount under the sub-head of 'Superintendence' is higher than the actual of 1900-1901, and the estimates of 1901-1902 and 1902-1903. I shall be glad to know if this sum of Rs. 55,000 includes any provision for establishing any Agricultural Banks over and above the 48 Agricultural Banks already started. I am glad to notice that the Government of India has recently made some arrangements for the better supervision of the Agricultural Department, but I am afraid no amount of supervision by the heads of the Department can lead to any very practical good, unless the lessons of Agriculture be practically brought home to the minds of the cultivators. To further this object, I would recommend formation of Agricultural Committees in each district of the Province and establishment of more experimental farms like those which have already been started at Burdwan, Dumraon, &c. Agricultural exhibitions in different parts of the Province held under the patronage and encouragement of the Government will greatly add to the usefulness of such institutions.

"I next come to the head of 'Police Reforms.' Much has been said of late both by officials and the general public, including my humble self as a witness before the Police Commission about the inefficiency of the present Police. I convey my sincere thanks to Government for the provision of four lakhs in the Budget for general reforms in that Department. I see a provision has also been made for the revision of the establishment at the training school for Sub-Inspectors. But it does not appear what amount has been set apart for it, or how it will be spent. The Police Training School, as at present constituted, does not efficiently teach the cadets the art of investigation of cases. Formerly the period of training was three months, which has now been raised to six months, but I think this is not sufficient, and it should be raised to one year.

"Further, the mock investigations held in the premises of the school for giving a practical training to the cadets are worthless. In fact, the cadets after leaving the school are placed entirely in the hands of the old class of head-constables in the matter of learning the investigation work and are soon corrupted by them. Now that a grant has been made for revision of the establishment, I humbly request Your Honour, if that grant be sufficient, to consider the desirability of placing the town of Bhagalpur under the charge of the Police Training School. Already there are one Assistant Superintendent and three Inspectors of approved service in that Institution, but they are overworked. With an addition of a few more Inspectors as Instructors and with certain other changes, I think the scheme will meet with success. It will give the cadets an excellent opportunity of learning the investigation work *practically*.

"If this scheme do not find favour with the Government, I beg to suggest that the town Police station may be made a model station to which the cadets may be taken for the purposes of training in the investigation work."

The Hon'ble the PRESIDENT said:—"May I ask the Hon'ble Member as I did the Hon'ble Babu Chaturbhooj Sahay to confine his remarks to the Budget on this occasion. I would ask him to consider whether he does wisely in taking up the time of the Council in dealing with those matters with regard to Police establishment when we are here to consider the Financial Statement. I think if he would devote his attention to larger matters, it might be more conducive to business."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, continued:—"I beg Your Honour's pardon. I will leave this subject and proceed to deal with other matters.

"I next turn to the subject of Education. To begin with, I, on behalf of the Division I represent, must thank the Government of India for the very handsome grant of ten lakhs of rupees for the cause of Education. I do not like to detain the Council by an elaborate discussion of the subject, as the whole system of Education in all its branches will be remodelled after the Government of India have passed its final resolutions on the report of the University Commission. On this occasion I shall chiefly deal with the subject of Primary Education. Primary Education is imparted in the lower classes of secondary schools as well as the primary schools. It is a matter of great satisfaction to find that in the present Budget fair sums have been set

[*Rai Tarini Pershad, Bahadur.*]

apart for the improvement of primary education, for training institutions, for primary school teachers, for lower primary scholarships, and for contribution to Provident Fund for teachers in primary schools. Both expansion and consolidation of Primary Education should be always kept in view. It is a matter of great regret that since 1896-97 the number of primary schools as also the number of primary scholars have steadily decreased. But I hope fresh impetus will be given to the cause of Primary Education by the grants made in the present Budget. It is very desirable that teachers, who would mould and train the minds of the young generations, should themselves be trained men, and this purpose will be well served by the training institutions. The course of study need be carefully revised, and it should be such that it may teach the boys by object-lessons and make them practically familiar, as far as possible, with their ancestral crafts.

"Now I beg to draw Your Honour's attention to the backward condition of the division I represent, and to the necessity of giving it its fair share of the grant allotted for Primary Education. The situation of this division in comparison with the other divisions of the Province will at once appear from the table I hold in my hand:—

	Name of Division.	Male population of school going age according to the Census of 1901.	Percentage of pupils to population of school-going age.
1	Patna ...	1,120,246	14·4
2.	Dacca ...	820,993	24·2
3.	Rajshahi	659,007	18·5
4.	Bhagalpur	649,737	13·8
5.	24 Parganas	62[illegible],213	28·0
	Calcutta	83,804	19·5
6	Burdwan	617,539	43·1
7.	Chota Nagpur ...	361,386	18·3
8.	Chittagong	354,659	34·3
9.	Orissa	317,359	39·7
	Orissa Tributary Mahals ...	145,496	11·2

"The figures tell their own tales. I need only say that in point of Education the Bhagalpur Division is the most backward in the whole Presidency, and it therefore deserves the best encouragement at the hands of Your Honour's Government.

"I have to lay before Your Honour another grievance of the Bhagalpur Division, and that is in respect of Technical Education. In these days of hard competition, when both service and profession are overcrowded, when even many of our graduates are at their wits' ends to find a mere subsistence, the value of Technical Education cannot be over-estimated. Government is fully alive to it, and has been trying its best to expand this system of education. Technical schools have been established in different parts of the Province. Technical sides have been added to certain zilla and high schools in pursuance of the scheme of bifurcation of studies introduced in the year 1900-1901 for training students in manufacturing industries as well as in commerce and trade. At present there is in every Division of the Province, except one, either a technical school or a technical side to the zilla school, and in some Divisions there are both. The unenviable exception is the Bhagalpur Division, which has not within its whole range either a technical school or any technical side to any zilla or high school. I deem it my duty to bring this to the notice of Your Honour's Government, so that it may be pleased to do what it may think proper in this connection.

"I next come to the subject of Water-Supply. The Council is aware that Government attaches great importance to the supply of pure water for drinking purposes. This emboldens me to approach Your Honour with this humble request that Government may be pleased to see to the extension of water-supply, not only along the District Board roads, but also in the interior, by issuing instructions to the District Officers to point out while out on tour the importance of such supply to the rich and well-to-do people of their districts.

"Now I proceed to take up the question of the Water-Works in the town of Bhagalpur. The water-works of Bhagalpur were started in the year 1888 at a cost of about Rs. 3,12,000 raised mostly by public subscriptions,

and also partly by debenture loans, which were Rs. 50,000 at an interest of Rs. 6 *per centum per annum.* In the year 1895-1896 an extension was made of the works when a loan of three lakhs was obtained from Government at an interest of four *per centum per annum* on condition of repayment within 30 years by half-yearly instalments of Rs. 8,630-5-5, including interest. The amount outstanding on that account was Rs. 2,67,992-2-9 at the end of March, 1902. Out of the amount so lent by Government, such of the debenture-holders as agreed to be repaid were paid off. There remained only one debenture-holder who did not accept repayment. The bond of this gentleman is for Rs. 22,000 at an interest of six *per centum per annum*, and on this account Rs. 2,000 is paid annually to the Sinking Fund, and Rs. 1,320 is paid annually for interest. Thus, on this account, a sum of Rs. 10,241-12-11 has accumulated in the Sinking Fund. The following table will give an idea as to the capability of the Municipality to maintain the Water-Works in an efficient condition:—

"Income under the head of Water-Works for the year 1901-1902:—

	Rs.	A.	P.
Water-rates	22,291	1	10
Proportionate share of fines and penalties ...	130	9	1
Other sources	3,269	4	0
Total ...	25,690	14	11

"Expenditure under the same head and for the same period:—

	Rs.	A.	P.
Direct charges	24,682	3	11
Proportionate charges for collection ...	1,106	4	7
Payment of Government loan	6,349	13	11
" of interest on Government loan ...	10,910	12	11
Deposited in the Sinking Fund for the debenture loan	2,000	0	0
Payment of interest on the debenture loan ...	1,320	0	0
Total ...	46,369	3	4

"It will thus appear that in the year 1901-1902 the total charge under the head of 'Water-Works' was Rs. 46,369-3-4, and the total income was Rs. 25,690-14-11, leaving a deficit of Rs. 20,678-4-5 which was met from the General Fund. If only the direct charges and the proportionate charges for collection, which amounted to Rs. 25,788-8-6, be taken into consideration as against the total income, even then it will be found that there was a deficit of Rs. 97-9-7. The total income of the Municipality from all sources during the year 1901-1902 was Rs. 1,32,789-3-5, while the total expenditure was Rs. 1,33,235-10-2.

"Having thus placed before Your Honour the financial position of the Municipality, I desire to say a few words about the supply of water by the Water-Works Since the year 1899, when the river receded from the pumping station, the supply of water has been not only insufficient but irregular. For some time water was brought to the pumping station from stagnant pools in the bed of a streamlet called Jamunia through channels cut for the purpose. The water supplied was of a very inferior quality, but even this supply was sometimes altogether stopped for want of supply through the channels. An experiment was made with a percolation well, but to no purpose; the well silting up during the rains. Borings were also being made in the sand, but the water-bearing strata could not be found even at a depth of fifty feet. There is a great scarcity of water all over the town during a greater portion of the year, and the sufferings of the rate-payers are intense. The rate-payers who have house-connection pay a water rate of $7\frac{1}{2}$ *per centum*, and in return get this intermittent supply of water, and even that is not of good quality. There is a strain on the resources of the Municipality and the purses of the rate-payers. Having regard to these circumstances and depending much upon what the Council knows so well that Your Honour rightly attaches great importance to water-supply for drink, I beg to approach Your Honour to devise any ways and means to remove this keenly-felt grievance of the rate-payers of the

Bhagalpur town, which has an area of about 9 square miles, and give them a supply of good filtered water.

"According to the rules and regulations in force in the Sonthal Parganas, suits valued at Rs. 1,000 and upwards are triable according to the law and procedure in force in the Regulation districts. Appeals from original decrees in suits valued between Rs. 1,000 and Rs. 5,000 lie to the Deputy Commissioner of the Sonthal Parganas and second appeals to the High Court of Calcutta, and appeals from original decrees in suits valued over Rs. 5,000 lie direct to the High Court, and in suits valued at Rs. 10,000 or upwards appeals from the decrees of the High Court lie to the Privy Council. In very many cases such suits, to my personal knowledge, involve many difficult and complicated questions of law and fact which require to be dealt with by such Judicial officers as handle such cases in the Regulation districts where such officers, having served in the several grades of Munsifs and Subordinate Judges, are well grounded in the Civil Law. But in the Sonthal Parganas such important suits are placed in the hands of officers who cannot be expected, from the very nature of the stages of the service they have to go and have gone through, to be sufficiently able to handle such suits as the Subordinate Judges and the first grade Munsifs are able to do in the Regulation districts. The people of the Sonthal Parganas are no longer in the same backward state in which they had originally been. Facilities of communication with the Regulation districts and people thereof and various other considerations have contributed greatly to the advancement of the people of the Sonthal Parganas, and the civil cases in which they are now involved are no longer of the same simple nature as they were before. In the Chota Nagpur Division there is a Subordinate Judge located at Ranchi, whose duty it is to try all Subordinate Judge cases of the several districts of the Division. Following the lines of the Chota Nagpur civil administration, I take the liberty of making a suggestion that the Government may be pleased to consider the advisability of providing a Subordinate Judge for the six sub-divisions of the Sonthal Parganas.

"While I make this suggestion, I do not lose sight of the financial position of the Government. In my humble opinion the additional expenditure to be incurred in giving effect to my humble request, may not be considerable: for, if the Government be pleased to provide a permanent Subordinate Judge for the Sonthal Parganas, the Sub-divisional Officers will be relieved of their duties as Subordinate Judges, and will be able to devote their time to the trial of more criminal cases and civil cases below Rs. 1,000 than they can at present do, and the services of the second officer or the third officer in some of the sub-divisions may be dispensed with from those places and made available elsewhere in the Regulation districts.

"At page 28 of the Budget, I find that a grant has been allowed to the Veterinary Dispensary at Dumka, for which I heartily thank the Government. Cattle diseases are very common in the Sonthal Parganas, South Bhagalpur and South Monghyr, and make terrible havoc from time to time. The increased grant under the head of 'Veterinary Charges' commends itself to me, and I hope that, as funds permit, Government will be pleased to establish in the Province more veterinary dispensaries and employ more stationary and itinerant assistants.

"Looking at page 23 of the Budget, I find that provision has been made for additional establishments in the Munsifs' Courts and also for increase in the establishment of Criminal Courts. I do not know what sums have been set apart for these reforms and how the same are to be utilized.

"The grievances of the ministerial servants of Government have been the subject of frequent discussion both in Press and in this Chamber, and they evoked expressions of sympathy both from this Government and the Government of India.

"It is a stern fact that the Munsif Court Amlas are overworked and underpaid, and the sanctioned establishments are largely assisted by an unpaid and even unauthorized agency. It is, therefore, a satisfaction to find that after all some relief has been provided for them."

The Hon'ble MR. APCAR said:—"I am glad to be able to again congratulate Your Honour's Government on the financial results of the year.

[*Mr. Apcar; Mr. Elworthy.*]

"I will refer briefly to a few points which I venture to think are worth the consideration of the Government.

"First with reference to the High Court. On the last occasion, while appreciating the proposal for the appointment of an Additional Judge and increase of establishment, I ventured to suggest to the late Sir John Woodburn for his consideration the necessity of appointing a Second Additional Judge with the necessary extra establishment when the present Budget Statement was being prepared. Your Honour was present at the Budget Debate in the Council of His Excellency the Viceroy, and I have no doubt gave your careful attention to the remarks made by Mr. Justice Rampini suggesting that a small part of the surplus of receipts over expenditure might be devoted with the view of improving the administration of justice in the Empire, more especially in the province of Bengal, where the net profits under the head of 'Courts of Law' amounted to Rs. 50,76,480.

"I will not take up the time of the Council by repeating the details of the arrears which were brought to the notice of His Excellency the Viceroy. Your Honour has, no doubt, given them your attention, and I would again ask your most careful consideration of the matter.

"With reference to the heading of 'Marine.' I note there has been a falling off in pilotage receipts in the Port of Calcutta of Rs. 1,33,000. As a Commission has been appointed to report on Pilots and Pilotage, I think it advisable to defer reference to this subject pending issue of the report.

"With reference to the Boiler Fund accummulation of Rs. 65,000. The Government was urged to make a reduction of the fees, but it was represented that as certain increase of establishment was contemplated, it was not opportune to entertain the application. Now that a year has transpired, I trust the Government will again communicate with the Chamber of Commerce.

"A subject of some discussion and correspondence with the Government during the past year has been the conduct of proceedings in the Police Courts. I understand the matter was referred to the High Court some months back, but so far we have heard nothing of what is proposed to be done to remedy the causes for complaint which have been so universal; and beyond a paragraph in the paper of yesterday that Mr. Justice Brett had been deputed to visit the Police Court, I believe nothing has been done.

"There is only one other matter to which I will refer briefly. A very able and carefully considered Note has been submitted to the Government by Mr. O. C. Lees upon the projected improvements of Waterways in Bengal. This Note deals at considerable length with the measures which in Mr. Lees' opinion are necessary and advisable. The Government submitted this Note to the Chamber of Commerce, and after careful consideration of the subject by a special Sub-Committee the Committee of the Chamber have expressed their opinion in favour of the proposals.

"To quote Mr. Lees:

'The enormous sums of money which have recently been laid out in Germany, Russia, France and America on the construction of Canals and the improvement of Waterways afford convincing evidence of the great value attached by the Governments of those countries to the possession of good water communication between important trade centres. They have recognised the fact that the resources of a country are largely developed by facilitating the transport of raw material and the heavier kinds of cheap merchandise, and that good waterways offer special facilities for such traffic, and are in fact as essential for the economical development of trade as railways.'

"These remarks I think apply specially to Bengal which possesses so many fine navigable rivers. I have no doubt Your Honour has given the matter careful consideration, and when a reference is necessary to the Government of India, that such reference will be made. The scheme is a big one, involving considerable expenditure, but the interests of the Province in my opinion justify it."

The Hon'ble MR. ELWORTHY said:—"We have again an opportunity of offering you our congratulations on the financial prosperity of Bengal. There is money in abundance, increased revenue, and money which has passed down from the previous year unspent. I believe that there is unqualified approval of the manner in which it is intended now to spend it.

[*Mr. Elworthy.*]

"I see, Sir, that there are large grants for Education and for the Subordinate Services. During my time as a Member of this Council, I have frequently heard, in this Chamber, appeals in the cause of Education and the improvement in the Subordinate Services: my hon'ble friend Dr. Asutosh Mukhopadhyaya and my colleagues on the non-official side will be pleased with the grants that have been and are being made in response to their appeals.

"I am not qualified to traverse the Budget now before us, and the various heads of its revenue and expenditure; there are experts in this Council who have adequately dealt with them. There are, Sir, two or three subjects on which I will make a few remarks with regard to the City of Calcutta.

"Much satisfaction will be felt with regard to the grants that have been made in aid of the Medical College. I find that five lakhs have been given to the Surgical Ward, Pathological Block, and for the accommodation for the Nurses. These are generous grants for the benefit of a Medical College, which does the two-fold duty of treating the sick and teaching Medical and Surgical science. I see, Sir, further grants for the Presidency General Hospital. It is for this Hospital I make my appeal to-day, for the new paying Ward which has so long been under discussion. It will be remembered that at the opening of this Hospital, the late Lieutenant-Governor stated his case to the public, and gave us to understand that it was solely from want of funds that this much desired addition could not be made. It was then that Sir Montague Turner expressed his belief that if Government would grant money, the public of Calcutta would respond with a generous donation. I am sorry, Sir, that no further progress has been made, either with a Government grant or a public subscription. The necessity for such a Ward has been so often expounded that I need not say anything to-day except to remind you, Sir, that it is not only for the City that the need is felt, but for all Europeans in the Province of Bengal. It is needed for all those who are engaged in the commerce, the trade, and in the industries of the country, in Bengal and in Assam, for officials and non-officials alike, to whom treatment and proper nursing are difficult to obtain, except at great expense in their own quarters and in outlying districts. That such a Ward would repay its expenditure to some extent, is possible, for in the Budget itself, in paragraph 23, it is stated the estimate under the head of 'Medical' mentions an improvement due to anticipated increase in the receipts from paying patients in hospitals.

"Now, as to subscriptions from the Calcutta public in aid of this Ward, we have been taught by past events that we must not be too hopeful. Calcutta has for some years been remarkable for its generosity; the calls have been numerous, calls that are still fresh in our memory. We need a little rest, the time has not come when we can again tax the generosity of this City. Further, there is a deeply-rooted antipathy to a subscription in aid of bricks and mortar that become the property of Government. I believe, Sir, that after a little rest Calcutta will respond to a call for funds, but rather for equipment than for building. There are certain funds from which assistance may be obtained, and there are promised donations from certain quarters regarding which the Hon'ble the Financial Secretary may perhaps be able to speak with authority; we shall be glad if this may be a convenient moment when we may be taken into his confidence.

"I now venture to ask if the Ward may be built without further delay, and that you, Sir, will not wait for help from the public, of which no immediate assurance is available. I trust that Government may forget its desire for public assistance, and on its own initiative take in hand and complete the Ward for which Calcutta and Bengal will be deeply grateful.

"I note with satisfaction the grant under the head of 'Law and Justice'; the further expenditure on the High Court. Public attention has lately been directed to the Law's delays in another tribunal, the Police Court. This matter is, I understand, under consideration, and it is not my wish to speak at any length. The complaints arise mainly from postponements by the Honorary Bench. Such postponements are often unavoidable. The Honorary Bench does very good work and there are many Magistrates who sit singly and get through a large number of cases. But the Bench of two or three Magistrates cannot, by reason of its constitution, work with such celerity. Honorary

[*Mr. Elworthy.*]

Magistrates are not all men of leisure; many of them are leading business men and cannot afford to devote more than a certain portion of their time to the Police Court. Continued adjournment of cases are as much a source of annoyance and inconvenience to them as they are to the suitors and the public generally. But the fault does not lie entirely with them that cases are allowed to drag themselves along to such unreasonable length, as it is complained that they do.

"In many instances when a Magistrate has expressed his desire to take up a case *de die in diem*, until it is finished, he is met with the insuperable objection that no Court and no staff are available, and hence a case, which might be finished in two or three days, takes from three to six weeks to finish. Another source of delay is the mutual convenience of Members of a Bench. It often happens that a day which will suit one of the two or three Magistrates will not suit the other. A day mutually convenient has to be arranged, and that day must also fit in with the arrangements of the Court. I am of opinion that the staff of the Magistrate's Court should be increased and provision made for hearing cases from day to day when occasion arises. Another Stipendiary Magistrate would help materially to keep cases up to date, and it is for a third Stipendiary that we now ask.

"Under the head of 'Marine' we are told of the falling off of the Pilotage receipts. This, I fear, Sir, we have to accept as to some extent permanent, because changes have taken place in the nature of Calcutta trade. Regular Liners from England now take in as places of call some of the Coast ports; Rangoon, Vizagapatam and Chittagong have their lines of steamers running direct to Europe. The East Coast Railway naturally alters the course of traffic and tends to lessen the trade that formerly came and went through Calcutta. Shipping firms have had to consider the means of working profitably, and there seems to be no doubt that vessels with larger carrying capacity work with better profit than smaller ones. Vessels are fewer in number, but they carry larger cargoes. The remedy appears to me to lie in re-classing pilotage rates, if any change be really necessary or desirable.

"The scheme for the improvement of the City of Calcutta has, during the last three years, been a subject of discussion in this Council Chamber. It is a scheme in which the late Lieutenant-Governor took great interest; Sir John Woodburn would have been pleased, had he been alive, to find that it is now before the public. We have not yet received more than a summary of that which is proposed, but it is sufficient to show us its possibilities. The Government of India gives 50 lakhs. We do not see any contribution from Bengal. I ask, Sir, to-day whether Bengal will not also contribute.

"In reviewing the note from the Bengal Government to the Chairman of the Corporation, we conclude that the scheme will put Calcutta in a tight corner for 20 years, and that the City will be seriously crippled to find means to carry on its current work under conditions of expansion, for expansion seems certain where prosperity and congestion exist. The surplus income will be hypothecated to the new scheme, and there will be no margin for meeting the demands of an evergrowing City. Where is the money to be found? The note from Government states, in paragraph 3, that in case there is any default made in any payment of interest due on the loans, the amount should at once be paid from the Municipal Funds, and the Corporation should then have the power to levy any special tax, to be approved by Government, to make up the deficit. That there will be a deficit and that funds will be necessary seems certain. The means for meeting it must come up for discussion sooner or later.

"It may seem somewhat premature to discuss the question at this stage, but, Sir, I do not think I am premature in asking now whether the Government of Bengal will, like the Government of India, contribute a considerable sum. If not, may we look further afield for taxation, on such commodities as jute and coal? A tax on jute has frequently been suggested as a means of raising funds for various purposes. It is a tax that may give a very large sum which would help the Municipality in this scheme, and I venture to suggest, Sir, that this tax, which appears to me to be only a matter of time, may be ear-marked for the benefit of the improvement of the City of Calcutta. I do not think I am wrong in stating that a very modest sum per bale would bring in a revenue of

15 lakhs a year. Then, Sir, there is a tax on coal. This, if only at the rate of two annas per ton, should bring in a revenue of two lakhs a year. These two imposts would pay the interest and sinking fund on the money required to be raised without burdening the Municipal finances. These imposts would help to bring Calcutta up to date as a City, and they could be properly employed hereafter in keeping the city up to date. These taxes on jute and coal would make the improvement scheme a matter of small anxiety to the Corporation.

"I again, Sir, congratulate you on the Budget which has been placed before us, and on the continued prosperity of the Province under your rule."

The Hon'ble MR. GREER said:—"I desire to endorse all that has been said by the Hon'ble Mr. Elworthy as regards the need for the re-organisation of the subordinate Criminal Courts in this City. The subject must have a special interest to all who are engaged in administrative work in Calcutta

"I observe with satisfaction a provision in the Budget for increasing the strength and efficiency of the City Police, and presume that, as a result of the labours of the Police Commission, an improvement will take place in the Provincial Police in the suburbs of Calcutta. It seems to me, however, that no change in the Police can be effective to check the growth of crime so long as the law-abiding public and the Police find their energies frustrated by incompetency and delay in the disposal of criminal cases.

"The Bench of Stipendiary Magistrates in this City is lamentably deficient in strength; it obtains no adequate assistance from Honorary Magistrates, and it compares most unfavourably with similar institutions in any city approaching it in size or importance in any civilised country. It seems to me that four Stipendiary Magistrates are necessary for the proper disposal of work, corresponding more or less to the four divisions of the town under Municipal Government. The subject, I know, is under the consideration of Government, and the result may, I feel sure, be awaited with confidence by this Council.

"As regards the so-called improvement scheme of Calcutta, personally I am unable to view it with the approval which it has received in various quarters. The scheme contemplates an increase of 1½ *per cent.* to the rates and taxes, thereby raising the Consolidated Rate to 21 *per centum.* The Corporation are now committed to the completion of the Suburban Main Drainage Scheme and the extension of the continuous water-supply system to the City, and it may be argued that a margin of at least 2 *per centum* should be reserved for the completion of these measures. Accordingly there would remain no balance from rates and taxes to meet unforeseen demands. At present the Corporation receives on an average over Rs. 80,000 a year as a yearly increment from the growth of the City. To meet the needs of this growth, the Corporation are obliged to provide additional roads, drainage, conservancy, lighting and other municipal conveniences. The scheme contemplates the entire withdrawal of this increment of Rs. 80,000 a year and practically closes the door against further improvements from this source or the proper discharge by the Corporation of their duties to the rate-payers who provide the increased income from rates. In my opinion the case of the growing suburbs is at least equal in importance to the treatment of the existing city, and the work of the Corporation will be condemned, and deservedly so, by future generations if they neglect this duty.

"The imposition of an additional 1½ *per centum* on the rate-payers will form the subject for future discussion; personally I am in favour of finding other ways and means, and trust that the interests of the landowners and occupiers in Calcutta will receive more consideration in the finally-adopted scheme. The withdrawal of the annual increment from the funds of the Corporation, however, will, I fear, prove injurious to Municipal Administration, unless there be an increase to the rates and taxes, which the inhabitants cannot easily bear. A cardinal point in the scheme is the sale of surplus land at a high price, based on the experience of similar operations on Harrison Road. I fear

the anticipations will not be realized, that men and capital do not exist for operations on the scale contemplated over 15 miles, and that recoveries from sales will prove less satisfactory.

"According to the views of many the improvement of Calcutta on the scale proposed is an Imperial rather than a Provincial question, and though a Provincial grant would be gratefully accepted, there is a general opinion that the Budget of the Imperial Government in future years might fairly show a substantial allotment for the purpose, exceeding the amount which the present scheme sets forth as the gift of Government.

"The interests of the trade of Calcutta have been referred to as one of the main causes for the movement for the general improvement of the thoroughfares of the town. It appears to be reasonable to look beyond the means of the rate-payers for the necessary funds, especially as they are not solely responsible for the present state of affairs, and are now required to meet rapidly-increasing demands on account of the city as it stands and its growing suburbs.

"I join with the Hon'ble Mr. Elworthy in the hope that the imposition of a tax on jute may be carried out. For some years to come there is little danger of a cessation of the monopoly in jute which Bengal now enjoys: the tax would fall on the consumers of jute and produce little or no effect on the people of this country. I shall not refer to the proposed taxes on petroleum and coal. The various suggestions on the subject, no doubt, will receive careful consideration. I am only anxious that the interests of the Corporation and of the rate-payers should be kept in view whenever the scheme comes under the notice of those responsible for the government of the country, and that is my excuse for occupying the time of the Council to-day."

The Hon'ble MR. INGLIS said:—"With your permission, Sir, I will offer brief explanations on some points which have been noticed by Hon'ble Members with respect to Departments, with the control of which I am associated.

"The Hon'ble Mr. Elworthy has drawn attention to the lessened receipts from Pilotage and has suggested a re-classification of the rates of the charge. I may say that, as observed by the Hon'ble Mr. Apcar, the whole question of the pilotage rates in the Calcutta Port, of the share of these rates which the Pilots draw as their earnings, as also the Act and Rules under which the discipline of the Pilot Service is maintained, has, at the request of the Government of India, been referred to a Committee on which the Chamber of Commerce and the Port Commissioners are represented.

"The Hon'ble Maharaja Manindra Chandra Nandy has expressed his pleasure at the prospect of the clearance of the channel of the Bhagirathi by means of dredging. I should perhaps explain that the sum of Rs. 5,00,000 which has been provided in the Budget, is to be expended not directly in such dredging, but as a part payment for a large dredger of the most recent design, for the construction of which we are in correspondence with the India Office. The total cost of the dredger by the time it is erected and ready for use is not likely to be less than nine lakhs, and it will necessarily take some time to build. When we have got this dredger we hope to be able to improve the channel of the Bhagirathi as a means of communication with the upper Ganges, while it is also much wanted for various schemes of improvement of the channels which connect Calcutta with Eastern Bengal and Assam.

"The Hon'ble Babu Joy Gobind Law has mentioned the proposed Canal from Dhapa to Bamunghatta, and has asked whether the effect of this will be to exclude salt water from the lakes. I may reply that such was the intention as it was hoped that the exclusion of the salt-water would have allowed of the low land being cultivated with rice, while the drainage of the country near Dum-Dum would have been facilitated. It appears, however, that the interests of the fisheries in the Salt Lakes which would be affected, are so valuable that it is necessary to reconsider the position, and it is not now probable that there will be any interference with the flow of the tides.

"The Hon'ble Member has also alluded to the silted state of Tolly's Nullah. In connection with this and with the remarks made by the Hon'ble Mr. Apcar, I should like to mention that we have under consideration a project for a large

Canal to connect the Hooghly with the Mutla, utilising as far as possible Tolly's Nullah, and thence by channels partly natural and partly artificial *viâ* Khulna, and across the Madaripore Bhil to the Pudda, and so to give a shorter and safer route for the large trade which now comes and goes by means of the channels in the Sunderbans If this scheme should be carried out, locks would be built and the silting of Tolly's Nullah which is caused by the meeting of the tides, would cease. The project is one which will involve a large expenditure much beyond the resources of this Government, and it is too early yet to say if it is likely to receive the approval of the Government of India. I wish, however, to say that the importance of developing the navigable channels of Bengal is fully recognised."

The Hon'ble MR. EARLE said:—"I rise to reply to certain observations which have been made in regard to the working of Departments under my control. The first is with reference to the remarks of the Hon'ble Babu Joy Gobind Law. The Hon'ble Member has noticed that there is a provision of Rs. 6,000 for commercial classes in training colleges, and one of Rs. 4,500 for scholarships for Industrial students sent to Europe, and he says that it would be of interest to learn some further particulars about the grants and in what manner they are to be utilised. In the case of the scholarships, he says that it would perhaps be of importance to provide that the education and training of the students should be confined to matters which would be of immediate use to them when they return.

"Regarding the first point, I may say that the sum of Rs. 6,000 has been set apart for providing extra staff, etc., at the Victoria Training College, Kurseong, for the purpose of teaching commercial subjects; the training occupying two years after the passing of the Middle School examination. Before, however, the scheme is further considered, Government has deemed it desirable to inquire what demand there will be among parents for this class of instruction. This inquiry is now being made by the Principal of the Victoria Training College.

"As to the second point, Rs. 4,500 have been provided for scholarships for students who will be sent to Europe with the object of studying industrial subjects, and a scheme has been prepared for the purpose. Pending, however, the publication of the report of the Committee on Industrial Education and the orders of the Government of India on it, the scheme has been kept in abeyance. The question will be further considered when the views of the Government of India are received.

"The Hon'ble Babu Chaturbhooj Sahay has asked for an explanation of the estimated decrease in Land Revenue for the years 1903-1904, as shown in the Budget, page 13, Appendix A, under head 'Land Revenue.' The estimated decrease under this head for 1903-1904 is explained by the figures shown in Appendix A, page 13, of the Financial Statement referred to by the Hon'ble Member, and in paragraph 7, pages 3 and 4, of the same Statement. It will be seen that during the current year Rs. 1,80,000 only will, it is intended, be recovered on account of Survey and Settlement charges in Bihar, against Rs. 3,30,000 provided for in the revised estimate for 1902-1903 and Rs. 4,24,060, the actuals of 1901-02.

"The Hon'ble Babu Chaturbhooj Sahay also asked for an explanation of an item of Rs. 1,50,000 for recoveries on account of the Bihar survey and settlement charges, and he wishes to know if the arrears are recoverable from the proprietors or raiyats, or from both, and if from both, in what proportion from each. My answer to that is that, under the orders of the Secretary of State, one-fourth of the total cost of the survey and record-of-rights in North Bihar is borne by Government. The remaining three-fourths are recovered from landlords and occupiers in the proportions of seven-sixteenths and five-sixteenths, respectively. The sum of Rs. 1,80,000 is the Settlement Officer's estimate of the recoveries to be made from landlords and occupiers taken together during the current year in the districts of Darbhanga and North Monghyr. Of this sum, Rs. 20,000 will be recovered in the district of Darbhanga, and Rs. 1,60,000 in North Monghyr. The recoveries will be in the proportions referred to.

[*Mr. Earle.*]

"The Hon'ble Maharaja Manindra Chandra Nandy, of Cossimbazar, has noticed that under 'Education' the Financial Secretary has estimated for an apparent failure to expend Rs. 12,28,000. If the Hon'ble Member had read a little further, he would have noticed that under 'Education' the anticipated savings were only Rs. 5,20,000.

"The Hon'ble Dr. Asutosh Mukhopadhyaya also referred to the same subject, and I very much regret that he was not able to send me notice of the various points which he has raised in his speech. The chief one will be covered by the explanation I am about to give in regard to the Hon'ble Babu Joy Gobind Law's remarks, while the other matters the Government will take into consideration later on.

"In regard to this sum of Rs. 5,20,000, which is supposed to have lapsed, it will be observed that the Financial Secretary says that the total actual savings will amount to Rs. 5,20,000. This means that, according to the revised estimates, such savings may be expected. In fact, however, we do not expect a saving of more than Rs. 96,000. That saving is inevitable owing to various administrative reasons.

"The remaining questions were raised by the Hon'ble Rai Tarini Pershad, Bahadur. His first question was concerning 'Agricultural Banks.' He says that in the Budget for 1902-1903 under the head 'Land Records and Agriculture,' there was an allotment of Rs. 15,000 for the establishment of Agricultural Banks, and that in the present Budget there is no specific allotment for this purpose. He inquires whether any Agricultural Banks were established, as provided in the Budget for 1902-1903, and whether the estimate under the head of 'Land Records and Agriculture' in the present Budget includes any provision for Agricultural Banks. He also suggests the desirability of establishing more experimental farms and also of holding Agricultural Exhibitions. In answer to a question put by the Hon'ble Babu Chaturbhooj Sahay, the Council were informed, on the 21st March last, that the provision of Rs. 15,000 in the Budget for 1902-1903 was intended to meet the pay and allowances, and costs of establishment, of an officer, whom it was thought that it might be desirable to depute during the year for the purpose of inspecting and reporting on Agricultural Banks, and that it had no reference to the cost of establishing such Banks. The grant for the management and improvement of Government Estates in the Land Revenue Budget for 1903-1904 includes Rs. 15,000 for expenditure in connection with the opening of Agricultural Banks and grain golas in Government Estates.

"In answer to the question referred to above, it was stated that 48 Agricultural Banks had been opened up to date, of which 20 are in Government Estates, 16 in Wards' Estates and 12 in private Estates.

"As regards the establishment of Experimental Farms, there are at present two research farms, viz., those at Burdwan and Dumraon, and one demonstration farm, viz., that at Chittagong. It is not at present proposed to add to the number of the former because the work done on them requires expert supervision, which it is difficult to obtain, and the question of providing more demonstration farms is one of more immediate consequence. That question is now under the consideration of the Government.

"With regard to Agricultural Exhibitions and Fairs, the annual grant has been raised from Rs. 2,000 in 1901-1902 to Rs. 3,000 in 1902-1903, while a provision of Rs. 8,000 has been made under this head in the current year's Budget. In addition to this the Government of India has sanctioned an annual grant for three years, from 1st October, 1901, of Rs. 2,600 for the award of prizes, with a view to the improvement of cattle-breeding. This subject is, therefore, it will be seen, receiving attention.

"The second point upon which the Hon'ble Member required information was in connection with Education in Bhagalpur. He said that the Bhagalpur Division should get its fair share of the grant allotted for Primary Education. He also furnished a statement showing the percentage of pupils to population of school-going age in the different divisions, and added that there is no technical schools, or any technical side of the zilla school in the Bhagalpur Division.

[*Mr. Earle; Mr. Hare; Mr Collin.*]

"My answer to his remarks is, that when the distribution of the sum of four lakhs set aside for the improvement of Primary Education in Bengal in 1902-1903 was made, the principle adopted was to give grants to the various districts in proportion to the population of the district, and not to the number of pupils attending schools. In accordance with this principle, the Bhagalpur Division with 643,737 males of school-going age and 90,197 pupils received Rs. 48,000, while the Burdwan Division with 617,539 males of school-going age and 243,601 boys attending schools received Rs. 40,000 only. In the circumstances the Bhagalpur Division would appear to have received its fair share of the extra grant allotted for Primary Education.

"As regards Technical Schools or Technical Education in the Bhagalpur Division, the statistics available do not show that there is much demand for Technical Education in that division. In 1891-1892 there were five industrial schools in it, attended by 168 pupils; while in 1901-1902 only one school was in existence, attended by six pupils. In 1900 there was some correspondence with a view to establishing a technical school in Bhagalpur to work in connection with the Government zilla school. The Education Department gave every assistance in the way of advice, the framing of estimates, etc., which was asked for by the Board. The scheme, however, was abandoned owing to the paucity of subscribers and to the fact that people appeared to take no interest in the matter. There is nothing to prevent a fresh application being made at any time; if made, it will receive the careful attention of Government."

The Hon'ble MR. HARE said:—"There are only one or two points upon which there is any necessity for me to make any remarks. I will first of all deal with the Hon'ble Rai Tarini Pershad, Bahadur's suggestion that a Subordinate Judge should be appointed to the Sonthal Parganas. No case has been made out, and it is not shown that any relief is necessary to the staff of that district. The Government are not satisfied that a Subordinate Judge is at all required in the Sonthal Parganas. The appointment of a Subordinate Judge to that district would open out the very large question of the system of administration of the Sonthal Parganas, which is at present, as you are aware, carried out by a number of men who possess a considerable amount of local experience and with a very simplified procedure. The present system has worked very well, and the Government sees no immediate necessity for reconsidering it.

"The Hon'ble Mr. Apcar and the Hon'ble Mr. Elworthy have both noticed the necessity for reforms of the High Court. It is enough for me to say that this Government is doing what it can in the matter. A grant of Rs. 2,50,000 has been made for the extension of the building, which is found inadequate for its present requirements, and this want of a Court stands on the way of the appointment of an Additional Judge. I may also mention that correspondence is going on between the High Court, the Government of India, and the Secretary of State in regard to the subject of appointing an Additional Judge and carrying out several other alterations and reforms which, it is hoped, will remove the present accumulation of arrears.

"Then, in the matter of improving the working of the Presidency Magistrate's Court, the Government fully recognises that the present condition of things is unsatisfactory. The immediate control of the Presidency Magistrates' Courts is under the High Court, whom we have consulted as to the best means of improving the present condition of affairs. We have not yet received the report of the inquiry which is being made by the High Court. As at present advised, the Government is inclined to think it may be possible to remove the present defects by administrative improvements without burdening the Province with increased establishments. This declaration, however, in no way binds the Government. This is how the matter stands at present, but we hope very soon to introduce improvements which will remove the defects complained of."

The Hon'ble MR. COLLIN said:—"I must first thank the Hon'ble Members who have been so kind as to send us copies of their speeches or notice of the points which they wished to bring forward. I will next acknowledge gratefully the tone in which this Budget has been discussed and the general congratula-

tions which have fallen upon Government for the prosperous condition of the Province. The Hon'ble Babu Chaturbhooj Sahay gave a warning that we should not congratulate ourselves too much upon the increase of revenue from Excise and Stamps, as the increase from Stamps pointed to an increase of litigation, and the increase from Excise possibly to an increased consumption of liquor. With regard to the revenue derived from stamps, I would point out that the larger portion of the increase is from general and not from judicial stamps. The proportion of increase in the Court-fee stamps, though large in itself, is only 1 *per cent.* of the total amount. The proportion of the increase in general stamps is 3 *per cent.*, and it is generally looked upon as a source of satisfaction that the revenue from non-judicial stamps is going up. Such an increase shows that the country is carrying on its business vigorously and satisfactorily. It is not, therefore, the case that the chief increase of Stamp revenue is derived from an increase of litigation.

"With regard to the increase in Excise, it is true that a certain amount of it is due to the general prosperity of the country and to the consumption of more liquor, but a very large portion is due to better Excise administration. The largest share of the increase comes from Calcutta itself, amounting to over two lakhs, and this is due, not so far as we know to any general increase of consumption, but to the better settlements which the Collector of Calcutta, Rai Chunder Narain Singh, Bahadur, was able to effect last year, by which he broke up the ring of licensees and was able to settle the shops at an increase of two lakhs. In addition to that Government has increased the duty on *ganja*, and better arrangements are being made to prevent smuggling in opium. Thus it will be seen that to a large extent the increase in the Excise duty last year is due to better arrangements, and is, therefore, a source of congratulation.

"Though there was such a large balance at the end of the year, and the finances of the Province appear to be in such a prosperous condition, it is perhaps as well to speak a word of caution. This large cash balance is due partly to the inclusion in it of grants given by the Government of India. They gave six lakhs last year, of which we have nearly a lakh left, and they have also given us a further sum of two lakhs for the Medical College Hospital. Both these amounts are included in the cash balance.

"Then there has been an increase of revenue from the Sone Canals, which is not expected to recur, and may be looked upon as partly accidental and due to the chances of the season. A large part of the cash balance is, of course, due to the reduction of expenditure which is explained in the Financial Statement.

"With regard to the expenditure under the head of 'Education,' I would explain, in answer to the criticisms of the Hon'ble Dr. Asutosh Mukhopadhyaya, that the grant of ten lakhs was given at the beginning of the year, and it was not possible to make arrangements for its immediate expenditure. As an instance, I would mention that there is a grant of Rs. 6,000 for the Assistant Director of Education. This appointment could not be made at once, but the charge is entered in the accounts as Rs. 6,000 for the whole year. I believe, as the Hon'ble Mr. Earle has stated, that there has been during the past two or three months considerable expenditure under the head of 'Education,' which was not taken into account when the Budget was framed. The Budget was framed on the actual expenditure of ten months. If, when the actual figures of expenditure for the whole year are known, it is found that a considerably larger amount has been spent on Education than is now estimated, the cash balance will be proportionately reduced.

"It may be said that we should have anticipated our savings under 'Police Reforms' and other subjects and have provided for the expenditure during the current year, but there is in Bengal a special difficulty, namely, the existence of the Contract. Our Contract was made for five years in 1897. It was renewed in 1901 for one year, and then renewed for another year, which would expire at the end of this year. The uncertainty as to the terms on which the Contract will be renewed renders it very difficult to undertake any large schemes, the expenditure on which will extend over a series of years. We have no reason to anticipate that the Government of India will

behave otherwise than liberally when they renew the Contract: they have already given evidence of this by the large grants given to Bengal; but it is hoped that it will be made more permanent and cover a longer period than five years, which is a very short time in the life of a Province.

"There is another reason for not embarking on large schemes, which will involve an expenditure extending over a long period. There are two special subjects—Police and Education—which are likely to swallow up a very large amount. The estimate for Police reforms is 20 lakhs; but whether recommendations on these lines are accepted by the Commission now sitting or not, it is certain that Government will have to incur a large increase of expenditure under the head of 'Police.' With regard to Education, it is anticipated that if full effect is given to the proposals of the recent Commission, our expenditure in twenty years will increase by more than half a crore of rupees, a great portion of which will have to be provided out of our own resources. With these two large schemes hanging over us, we must proceed very carefully.

"At the same time it cannot be said that Government has been hoarding its money, and not using its resources satisfactorily. Sir John Woodburn, the late Lieutenant-Governor, always carefully considered the interests of the Province and was anxious to spend its revenue usefully. He was at first hampered by plague and famine, and when these difficulties were overcome, he set to work to devise schemes to provide for the growing necessities of Bengal. A scheme for Police and Education was worked out. The Subordinate Judicial Service was improved, and a scheme matured for improving the Subordinate Executive Service. The improvements of Government offices were also taken in hand. There is now a provision of ten lakhs of rupees, which is being spent on such works, and the greater part of them are in actual progress. Then a scheme was undertaken for providing Munsifs with better courts and residences. I have been asked how far that scheme has progressed. Last year it was shown that eight such residences had been provided. It appears that since the beginning of the year 1901-1902, eighteen Munsifs' residences have been completed and twelve more are under construction, and will be completed in the current year. It will be seen that the scheme is well in hand.

"You have heard what is being done for the improvement of waterways, which the Hon'ble Mr. Apcar has pointed out are so necessary for the development of the trade of the country.

"With regard to District Boards, Sir John Woodburn gave them in the two preceding years a grant of 5 lakhs to be spent on communications, and this we have been able to repeat this year. A considerable amount was given for feeder roads to railways last year, and we have increased the grant this year.

"Special care has been taken with the Medical Department, and the Hon'ble Babu Chaturbhooj Sahay drew prominent attention to the department by saying that there should be a dispensary in every sub-division or, I think, he said in every thana. Government has considered this proposal, but is not convinced of its necessity. I find that during the last six years the number of dispensaries in Bengal has increased by 128; that in itself is a very fair increase. An unsatisfactory feature is that they do not serve such a large number of persons, or at any rate a large number of people do not go to them as in other provinces. This is attributed to the number of private practitioners who are to be found scattered all over the country. In any case the increase of medical help throughout the districts is going on, and is a constant subject of interest to the Government.

"The Hon'ble Babu Chaturbhooj Sahay also pleaded for the establishment of a Medical College in Bihar, as I understood him. In regard to that, I may say that Government assistance has been given for improving the Bankipore Hospital. This hospital is in connection with the Medical School at Patna, and no doubt in time, with an improved hospital, there will be an improved college, and more will be done to meet the wants of that part of the Province, if it is found necessary.

[*Mr. Colvin.*]

"In regard to the Medical Department, the position of Civil Hospital Assistants has been improved by raising the salary of the maximum grade from Rs. 50 to Rs. 70 and the lowest grade from Rs. 20 to Rs. 25, and certain further appointments at district head-quarters have been reserved for Assistant Surgeons. But as regards medical relief in the interior, Government is somewhat hampered by the large amount of money it has to spend in Calcutta. The amount spent by Government in the districts is something like Rs. 1,30,000 out of the nine lakhs which are spent, whereas in Calcutta the Government expenditure is 76 per cent. of the whole amount. That of course is necessary in the existing condition of Calcutta, but it has often been pointed out that the amount of subscriptions and other help that these institutions receive is not altogether adequate. It is true that very often handsome donations are given for special purposes, as, for instance, Rs. 20,000 was given the other day by Rai Amritanath Mitter Bahadur for a hospital for Incurables. But there is no system under which subscriptions may be regularly supplied. The total amount of subscriptions to the Calcutta institutions is Rs. 15,000, and the subscription from Indian sources is only Rs. 1,500. If Government could get further assistance from private subscriptions it could spend more money in the districts outside Calcutta.

"You will notice that a provision is made in the Budget for two lakhs of rupees for building Nurses' quarters in connection with the Medical College and Eden Hospitals. I have noticed a criticism that this is an unjustifiable expenditure. It appears to have been thought that these Nurses were only to be employed in nursing European patients, but I would point out that in the Medical College Hospital the number of Indian patients is over 80 *per cent.* of the whole number, and the Nurses are employed upon all classes of patients indiscriminately. It was Sir John Woodburn's special wish to place the nursing of the patients in Calcutta hospitals on a broader basis, and for this purpose last year he appointed a Committee, which has worked very well under the able presidency of Sir Montagu Turner. It is composed of all classes of society, both European and Indian, and it was hoped that, with the addition of Indian members, we should be able to tap further sources of subscription for the Nurses, but so far we have not been successful. This is probably due to ignorance of the objects of the nursing institution. I feel sure that if it is known that the Nurses are to be employed for all classes, subscriptions will be received from the Indian as well as from the European community. As an instance of the interest which the Government takes on the question of nursing, I may mention that we have recently provided for an increase in the number of Nurses employed in the Campbell Hospital, where only the poorest native patients are taken in.

"The Hon'ble Babu Chaturbhooj Sahay asked a question regarding certain figures in the Budget which appeared to be doubtful. In the first place he noticed that though it is said that an increased grant is provided for the Subordinate Judicial Service, yet the total grant was not so much as the revised estimate of last year, and the explanation in the tabular statements showed that there was a small decrease of expenditure. I would explain that at the beginning of the year 1902-1903, Rs. 62,000 was provided for the re-organisation of Munsifs, but the total actual expenditure was Rs. 98,000. We have provided practically the same amount this year, Rs. 94,000. The small decrease is due to the fact that in that department there are certain graded appointments held by sharistadars who are on a progressive pay. Some of the elder members who were on a high pay have retired, and their places are taken up by others on the lowest pay. That accounts for the decrease.

"As regards the question of Sub-Deputy Collectors, it was asked how it is that in one place we showed an increase of Rs. 70,000 and in another place of Rs. 30,000 on the same account. The answer is that we have shown an increase of Rs. 70,000 in respect of this year and in addition to the Rs. 30,000 of last year, so that the increase is altogether Rs. 1,00,000. The half of this is paid under the head of 'Law and Justice,' and the other half under the head of 'Land Revenue.'

"The Hon'ble Rai Tarini Pershad, Bahadur, asked a question as to the desirability of an increase of muharrirs in Munsifs' establishments, as

[*Mr. Collin.*]

I understood him. I may say that we provide for an increase in certain places not a general increase. There is also included a lump sum of Rs. 10,000 for temporary establishments in cases where they are required. If conditions exist such as the Hon'ble Member has referred to, and there are places where muharrirs are working till late at night and are taking assistance from the outside public, it will be the duty of the Munsif in such a case to ask for assistance, and the Government will always be willing to give it if a case is made out.

"The Hon'ble Rai Tarini Pershad, Bahadur, also referred to the question of the Bhagalpur Water-Works, but I am inclined to think that what he has told us, although it was very interesting, would perhaps have been more properly uttered in the Council Chamber of the Bhagalpur Municipality. The position of District Boards and Municipalities is of course well known: they are independent institutions: they have definite functions and a definite law. It is the object of the Government to interfere as little as possible with the management of their affairs, and the Hon'ble Member would possibly be one of the first to resent such interference. In regard to the Bhagalpur Water-Works, at present we have had no notice from the constituted authorities of the Bhagalpur Municipality that they are in need of any assistance from Government. The Hon'ble Member described how these Water-Works were constructed, but I think he omitted to state that a sum of Rs. 80,000 was contributed by the Government as a part of the expenses. It is true that the scheme, so far as I can gather from the papers that I have read, was not a very good one. There were defects, and since the scheme was completed, the river has receded, and there has been still further trouble. The Government was always willing to assist the Municipality, and a few year. ago they gave a sum of Rs. 10,000 to improve the intake of the waters This Rs. 10,000 was not required, and was eventually refunded. I can only repeat that if there is any necessity for assistance from the Government, Government will be ready to consider the matter. I may mention in connection with this that we have recently had an application of a somewhat similar nature from Berhampore. In that case it appeared that the Water-Works had got out of order from causes that were accidental, and in order to help the people, Government gave a grant of Rs. 5,000.

"The Hon'ble Mr. Elworthy has raised the question of the Paying Patients' Block in the Presidency General Hospital. The Government can only join with him in regretting that the subject has so far made little progress. Government recognises that the present building is not suitable; the rooms are dark and badly ventilated, and not well arranged, and there is no doubt that if a better block were provided, it would be a great benefit. But it has always been held by this Government that the provision of this block should not be made solely from Government funds. The question was raised at the time of Sir Alexander Mackenzie, and it is not necessary for me to repeat all that he said on the subject; but he concluded by saying that unless the European community were prepared to accept a scale of charges bearing a reasonable relation to the working expenses, and also to raise by subscription a substantial proportion of the cost of providing the separate block which is proposed, it would not be possible for the Government to assign Provincial funds for this work. The question was again considered in Sir John Woodburn's time, and the same opinion was again expressed, so that it is difficult for the present Government to recede from the position hitherto taken up and to adopt the Hon'ble Mr. Elworthy's proposals. But I can assure him that we are in full sympathy with the wish that has been expressed that there should be a better Paying Patients' Block provided. We are prepared to provide at least two-thirds of the cost from the balance of the Hospital Port Dues Fund, which may be credited to the Provincial Revenues. It only remains for the European community to raise or give a promise of the balance which will be about Rs. 1,00,000. We have already received a promise of Rs. 27,000, but for the rest we hope that the Hon'ble Mr. Elworthy and his friends will be able to

give some definite assurance so that the work may be put in hand as soon as possible.

"The Hon'ble Mr. Elworthy has also referred to the question of the Calcutta Improvement Scheme, and the Hon'ble Mr. Greer has given us his views on this subject. I cannot, unfortunately, follow the Hon'ble Mr. Greer in his criticism of the scheme, because the question has now been put in a form in which it will issue to the Corporation, the Chamber of Commerce and the Trades' Association, who are to be consulted on the subject, and it is not possible for Government to give any opinion on the scheme until these bodies have given their views. The Hon'ble Mr. Elworthy has asked whether it is intended that there should be any contribution from the Local Government. I would say that this appears to show a wrong impression of the functions of Government. The Rs. 50,00,000 which is to be given by the Imperial Government is not given by the Government, but by the tax-payers; but if there is a sum to be given by the tax-payers, it matters little whether it is given by the Imperial or Provincial Government. The Provincial Government, moreover, is bound by its contract. It has a certain amount assigned to it at the commencement of the contract to provide for its estimated expenditure: it cannot undertake the responsibility of any fixed or definite charges above that. If it occasionally gets surplus balances it may be in a position to assist local bodies, but no definite undertaking can be given to do so. I would mention that the Calcutta Corporation has been very fortunate in the matter of the contributions it has received. It has received four and a half lakhs to help in the Plague expenditure, and other sums in recent years amounting to a lakh of rupees. Government has also supplied practically all the Hospital expenditure. It is not, however, possible under the present system of Provincial Finances, that in regard to such a large scheme as the Calcutta Improvement Scheme, projected over a number of years, the Provincial Government, as apart from the Imperial Government, could accept any definite responsibility. With regard to the proposal to impose a tax on jute and coal, I have no doubt that the Hon'ble Mr. Elworthy will have a proper opportunity of representing his views in proper quarters. If they are favourably considered, due consideration will be given to the suggestion by Government.

"With regard to what the Hon'ble Mr. Greer said, it is hoped that this scheme will not put an end to, or restrict the expenditure on, the improvement of the Suburbs and the works which are to be carried out there. The amount to be contributed by the Corporation ought not, if their funds go on increasing, as they are increasing, place such a burden upon the Corporation that it will be unable to go on with its ordinary expenditure.

"I think I have answered all the points which have been referred to in the course of the debate, and I will conclude by congratulating Your Honour upon the favourable state of the Finances of the Province and upon the reception which this Budget has received."

The Hon'ble the PRESIDENT said:—"The debate which we have heard to-day, and which it is now my duty to close, will not, I think, yield in interest or importance to any of the ten which have preceded it since this Council first undertook the discussion of the Provincial Budget. It has been marked by two distinct features. The first is the universal spirit of good-will which has pervaded the criticisms which have been levelled at the Budget itself. There was a time when this was not so, when the proposals of Government and their intentions were fiercely attacked, and when motives, not always the best, were ascribed to the Government and its officers. It may be that the reason for the change is that in those days we were hard-pressed for money, and when we were not able to carry out all that we wished to do, many hungry suitors were turned away disappointed. Now this is all changed, and during the last three years we have had Prosperity Budgets, and we have been able to do a great deal for the Province. When a ship is sailing over summer-seas, with a favourable breeze and flowing

[The President.]

sails, the crew are comfortable, and are not disposed to doubt the capacity or question the intentions of the captain and officers. Another reason, I think, is that owing largely to the consistent policy of the late Lieutenant-Governor to take the public into his confidence and to let them see the single-eyed desire of the Government to do all that was best for the Province, a good deal of doubt and suspicion have passed away, and the public and the Members of this Council are more ready to receive our measures and proposals with a larger share or sympathy and attention than they did before. Another matter which has distinguished this debate is the extreme importance of many of the questions brought before us. Not only have we discussed three matters of great moment to Calcutta, which have arisen not exactly as matters of finance, but there have been such large questions as reform of the Police, reform of the Educational Department, development of Agriculture, development of the great waterways of the Province, and improvement of the status of various departments of the State. All these have been dealt with by the Hon'ble Members in charge of the several departments concerned, and very little remains to be said by me in regard to them. They have also dealt with the three important matters which chiefly concern Calcutta, but upon those I should like to say a few words myself in addition to what has already been said.

"As regards the Presidency Magistrates, this matter is one that has had my personal attention for some time. But it is far easier to point out the disease than to devise a remedy, and in a matter of this sort the first thing to be done is to get at the real facts. The Government has for some time been collecting facts, and it is hoped that before long the information before us will be complete. As soon as that is done, I can assure the Council the alterations and reforms which seem to be urgently needed will be taken up and carried through, I hope, to a successful termination.

"As to the Improvement Scheme which has occupied the attention of the public during the last five years, it is impossible for me to make any pronouncement at the present moment: as you have been told, a letter is now under issue addressed to the Corporation of Calcutta, the Chamber of Commerce, and the Trades' Association, and some other public bodies, in which the past history and present state of the question are fully set forth Their opinion is being asked on the whole scheme as it now stands, and when that information is received, the Government of Bengal will forward it, with their own remarks and suggestions, to the Government of India. Till that has been done and till our views have been forwarded, I am not able to make any announcement as to what will be the policy of Government in this matter.

"Lastly, there is the question of the block for paying patients at the General Hospital which the Hon'ble Mr. Elworthy and other Members have referred to. With the Financial Secretary, I regret that I cannot accept the recommendation to let bygones be bygones and go back on the policy of my predecessors. It has long ago been held that the provision of a block for paying patients seems rather a matter for the contributions of the public than for a grant from Government, and that Government should not be called upon to provide all the funds for that purpose. At the same time it has always been admitted that the Government is always ready to come forward and supplement the subscriptions which may be made by the public. I hope that even if funds are not available now they will be available towards the end of the year, when Calcutta and the public will find that Government will gladly come forward and subscribe their quota to this much-needed reform.

"The Financial Secretary has given us a short sketch of the many schemes for the improvement of the Province that were inaugurated during the Government of Sir John Woodburn, and which were made possible by the growth of prosperity during the last three years. Some of these have already been carried out, others still remain; but the Council may rest assured that the Government is keenly alive to the wants of this great Province, and that it will do its best to

[*The President.*]

expend to the best advantage the funds which will be at its disposal during the year we have just entered upon.

"I have now only to declare the business of this assembly closed for this session, and to adjourn the Council *sine die.*"

The Council was adjourned *sine die.*

CALCUTTA;
The 4th June, 1903.

F. G. WIGLEY,
Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

B. S. Press—58G—300—4-6-1903—W. L. W.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 18th July, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. L. P. PUGH, *Offg.* Advocate-General of Bengal.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. F. A. SLACKE.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K.C.I.E., of Gidhour.

NEW MEMBERS.

The Hon'ble MR. SLACKE, the Hon'ble MR. MACPHERSON and the Hon'ble MR. SHIRRES took their seats in Council.

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Macpherson; Rai Tarini Pershad, Bahadur.*]

QUESTIONS AND ANSWERS.

SUBORDINATE JUDGE FOR NOAKHALI

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked—

Has the attention of the Government been called to a letter of the Noakhali correspondent, published in the *Bengalee* of the 28th June, 1903, regarding the inconvenience and harassment caused to litigants, owing to the delay in the disposal of Civil Suits by the District Judge of Noakhali, in consequence of the greater portion of his time being taken up by Sessions Cases and Criminal Appeals?

In view of the above, will the Government be pleased to post a Subordinate Judge at Noakhali; or make some other arrangement to redress the grievances of the people?

The Hon'ble MR. MACPHERSON replied:—

"The Lieutenant-Governor has read the letter in the *Bengalee* newspaper to which the Hon'ble Member refers.

"The question of appointing a Subordinate Judge in Noakhali has been for some time under the consideration of the Hon'ble High Court and the Bengal Government, and the matter is now before the Government of India."

CIRCULAR ISSUED BY THE DISTRICT MAGISTRATE OF MYMENSINGH

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked—

Has the attention of the Government been called to an article in the *Amrita Bazar Patrika* of 6th June, 1903, headed "A most dangerous Circular"? Is it a fact that such a Circular has really been issued by the District Magistrate of Mymensingh to the Subordinate Magistrates of the district? If so, does not the Government think that it is calculated to interfere with the judicial independence and discretion of the Subordinate Magistrates?

The Hon'ble MR. MACPHERSON replied:—

"The article to which the question refers was brought to the notice of the Lieutenant-Governor. The District Magistrate's attention has been drawn to the High Court's Circular Order of the 16th June 1900, and he was requested to withdraw any circular which he may have issued in transgression of that order."

RE-ORGANIZATION OF THE SUBORDINATE EXECUTIVE SERVICE

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said—

The Hon'ble the Financial Secretary, in laying on the table the Bengal Budget Estimate for 1903-1904, observed: "The re-organization of Sub-Deputy Collectors has not yet been finally sanctioned"; and in that estimate Rs. 1,00,000 was allotted for the improvement of the status of the Sub-Deputy Collectors, one-half of which was shewn under the head of "Land Revenue" and the other half under the head of "Law and Justice"; and further in paragraph 30 of the explanatory notes on that estimate it was stated that "the increase under (1) is due to larger provision made under salaries for the proposed re-organization of the Subordinate Executive Service, which is awaiting the sanction of the Government of India." Will the Government be pleased to lay on the table the scheme for such re-organization, shewing how it has proposed to spend the said sum of Rs. 1,00,000, and to state whether such scheme has since received the sanction of the Government of India?

[*Mr. Macpherson; Rai Tarini Pershad, Bahadur; Mr. Inglis; Mr. Shirres.*]

The Hon'ble MR. MACPHERSON replied :—

"The scheme has not yet received the sanction of the Government of India, and it is not at present possible to publish the details of it, which are still under careful consideration."

MISCONDUCT OF RAILWAY EMPLOYÉS AT ASANSOL STATION

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked—

Has the attention of Government been drawn to a scrap appearing in the *Amrita Bazar Patrika* of 13th June, 1903, complaining of the oppressive and impertinent conduct of Railway employés towards respectable passengers, and, amongst them, a Sub-Deputy Magistrate at the Asansol station, travelling with his family?

The Hon'ble MR. INGLIS replied :—

"The East Indian Railway Authorities have instituted inquiries into this matter, and will no doubt deal with it effectively."

WAITING-ROOM FOR NATIVE LADIES AT ASANSOL STATION

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked—

Is the Government aware that there is no suitable waiting-room for native ladies at the Asansol Railway station, and that a memorial has been presented to the East Indian Railway Authorities with a view to remove this want?

Will the Government be pleased to direct the Railway Authorities to arrange for some sort of *purda* accommodation on the down platform of the Asansol Railway station for native ladies, who are put to very great inconvenience on this account?

The Hon'ble MR. INGLIS replied :—

"The Lieutenant-Governor is informed that there is already a room set apart for native ladies on the up platform, and one on the down platform is being provided."

SUPERINTENDENT OF STAMPS AND STATIONERY

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked—

Will the Government be pleased to state whether, in disposing of the cost of Superintendent of Stamps and Stationery on retirement of Mr. Manson, it is not intended to give preference to the claims of such members of the Executive Branch of the Provincial Service as have, by their ability, experience and meritorious work, fitted themselves for that post?

The Hon'ble MR. SHIRRES replied :—

"The whole question of the organization of the Stamps and Stationery Department, and of the status of the officer who may, in future, be appointed to hold charge of it, is now under consideration. Until the question is decided, Government is not in a position to say how future incumbents of the post of Superintendent will be recruited."

THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903

The Hon'ble MR SLACKE in presenting the Report of the Select Committee on the Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897, said:—

"I have now, Sir, the honour to present to this Council the Report of the Select Committee on the Chota Nagpur Tenancy (Amendment) Bill, 1903, and in so doing would, with your permission, make some remarks with regard to certain of the matters referred to in the revised Bill. Copies of the Bill, as originally introduced, were sent to all those most interested in the districts to which it applies. The Bill itself was considered at a very representative meeting held at Ranchi in April last. The views then expressed have been duly considered, and the Hon'ble Members of the Select Committee have been most materially assisted by the gentlemen who will shortly take his seat in this Council as the Member for Chota Nagpur.

"In the Statement of Objects and Reasons attached to the Bill, as introduced into this Council, it was stated that the proposed amendments were designed to meet certain objects, eleven in number. Of these, one has been abandoned by the Select Committee, *viz.*, that to prevent the exacting of more than customary rates of rent from non-occupancy raiyats. The reasons for this have been stated in the Report. Five additional objects have been provided for in the clauses of the revised Bill. They are the following: (1) to make certain changes in procedure; (2) to provide for an appeal against orders passed in execution of decrees, (3) to grant the right of a second appeal to the High Court, (4) to remove, as far as possible, the causes which have tended to foster the agitation that has been disturbing the *Mundaris* for so long a time; and lastly (5) to bring the procedure of the Commutation Act of 1897 into line with that followed by the Settlement Officer, with regard to the record-of-rights when a survey and record-of-rights is being prepared, and predial services, etc., have to be compulsorily commuted.

"The first essential with regard to the admissibility of a proposed change was whether urgency could be pleaded in its favour. Unless this could be satisfactorily demonstrated, the adoption of a suggested amendment has not been recommended to this Council. Failing the necessary data which cannot as yet be furnished by the Settlement Officer, and which will not probably be fully available for a few years, it is impossible now to say to what extent the principle contained in the term 'settled raiyat' should be applied to Chota Nagpur. This affects the provision in the original Bill for facilitating the acquisition of occupancy rights. Although imperfect, it has been retained because it met some cases. Any attempt to improve it further would have led to the adoption, in some shape or other, of the principle of the 'settled raiyat,' a subject which, as I have just said, cannot be yet discussed.

"But advantage has been taken of the present opportunity to embody in the Bill a custom which is generally followed by all good landlords, *viz.*, to declare that the holder of lands known as *Korkor* or some other synonymous term has a right of occupancy in them. I would explain that *Korkor* is the term used to designate a field which a raiyat, by his own efforts, has converted from upland into riceland by terracing, and it presupposes the existence of a village which the term *khunt katti* does not. Clause 4 of the Bill restricts the sale or transfer of a raiyat's holding. The necessity for these restrictions must be explained. The right of a raiyat to sell his holding is not recognized in the Division, save in pargana Dhalbhum, in the district of Singhbhum. But though not recognized, raiyats are gradually more and more, though slowly, beginning to sell their holdings, and in course of time a custom will be established, unless measures are now taken to check it. Not to check the

growth of any such custom would most probably result in the reduction of a vast number of the raiyats to the condition of serfs. There are already signs that this may happen, for in Dhalbhum the purchases by *mahajans* of raiyati holdings for the purpose of subletting them again at heavy rentals are increasing rapidly. To prohibit sale merely would not suffice.

"There are two recognized systems of usufructuary mortgage, *viz.*, the *zarpeshgi* and the *bhooghut bundha*. Under the former of these the profits arising from the land go merely to repay the interest due. Under the latter such profits extinguish both principal and interest. The former system is a most dangerous one among an aboriginal people, for though the debtor—a man who never thinks of the morrow and is always carried away by impulse—does not part with his land out and out and knows that he can get it back again on payment of the principal, yet in many cases such repayment is quite outside the man's means. Thus the *zarpeshgi* system tends to create a landless race, and the provisions in the Bill will, if accepted, do away with it.

"Of the danger of allowing transfer a good example is to be found in Ranchi in the case of the tenures registered under Bengal Act II of 1869. Of the tenures with which this Act dealt, one class, known as *bhuinharri*, was in reality merely holdings, and consisted of small areas of a few acres each cultivated by the aboriginal holders themselves. It was then held that the right of transfer attached to such tenures. The result has been ruinous, for to-day, but very few are in the possession of the original holders or their descendants, having been parted with to others to obtain loans.

"The section in the original Bill which prohibited the sale of a raiyati holding, under any circumstances, was copied from the Central Provinces Act. In the Bill relating to that Act provision was made for the sale of a raiyati holding in execution of a decree for arrears of rent, but this was abandoned in the interests of the landlords who considered that the power of ejecting a defaulter was more to their advantage than that his holding should be brought to public sale. Here the converse is the case. The good landlords in Chota Nagpur consider that ejectment for failure to pay rent in the case of an occupancy raiyat is too harsh a remedy, and they point out that unless sale in execution of a decree for arrears of rent accruing on the holding itself is allowed, the defaulter will inevitably lose a portion of the value of the labour which he and his predecessors have put into the holding. Chota Nagpur is an undulating series of plateaus full of valleys, which in course of time have been, through the exertions of the tenants, terraced and converted into rice-fields. The gross value of the labour by which this conversion has been effected is immense. On the other hand, the total prohibition of sale and the retention of ejectment as the remedy has in one case been welcome as a means for getting rid of aboriginal tenants, and introducing in their places others who are better cultivators. Under these circumstances, I trust that the course selected by the Select Committee will commend itself to this Council, *viz.*, in the case of an occupancy raiyat to prohibit ejectment for failure to pay rent and allow a remedy by the sale of the holding, but only for arrears of rent accruing on the holding itself.

"To facilitate the obtaining of loans from Government under the Loans Act, it is provided that a holding for which a loan may have been granted can be sold to liquidate the debt. For this there is a precedent in the Central Provinces Act.

"In favour of the retention of the penalties provided in clauses 5 and 6 of the Bill with regard to the levy by landlords of anything in excess of what is legally due and to the non-giving of receipts, I would bring to the notice of this Council that much of the discontent that now characterizes the relations between landlords and tenants in some parts

of the Chota Nagpur Division, especially Ranchi, is due to the absence of any practical remedy to check such exactions, and to ensure that receipts are given. It is true that under the present Act a raiyat in the case of the landlord levying anything in excess of what is due, has a remedy by suit, but experience has fully shown that to give an aboriginal a remedy by suit is to give him no remedy at all. The tenant who has the means to institute a suit is not the tenant who will be oppressed, and the vast majority of the tenants in Chota Nagpur are persons who have not the means to go to the Courts.

"The preparation of a record-of-rights, such as is now being made, will provide landlords with what they have never hitherto possessed, *viz.*, data that are beyond suspicion and which can be utilized for the enhancement of rents. I have already pointed out that the law, even when amended as proposed, will not be satisfactory with regard to the question of occupancy right, and that nothing at present can be done to remedy this

"The existing law is also sadly wanting in safeguards as to enhancement of rents These two defects cannot be remedied until the work now being carried on by the Settlement Officers has progressed far enough to furnish the requisite data. The Settlement Officer at present is not allowed to enhance or fix fair rents, but is restricted to recording the existing rents, including settlements and predial services. Until these defects in the law have been removed, it is clear that unless some protection to the tenantry is now given, much injustice may be done, and in all probability the people, seeing what will result, would probably stop any further continuance of the Settlement Officer's work. The periods provided in the original Bill were fifteen years in the case of occupancy raiyats and five for non-occupancy. To the Select Committee it appeared that for the purpose in view fifteen years for the former was too long a period, and seven has been suggested It will be for the Council to decide whether this is sufficient.

"It may be asked why any protection should be given to non-occupancy raiyats. To this I would reply that so far as the information at the disposal of the Settlement Officer goes, the majority of the raiyats, unlike what is the state of affairs in Bengal, are, as the law now stands, non-occupancy raiyats. This is due to the machinations of the petty landlords, and when the question of occupancy right comes to be dealt with finally, I feel sure that the bulk of those who have now to be recorded as non-occupancy raiyats will be converted into occupancy raiyats. It is to the interest of the petty landlords to prevent the growth of occupancy rights, and this, owing to the defective state of the law, as well as the ingnorance and poverty of the people, they are able to a very great extent to effect

"Under the existing law (section 34) if the transferee by way of succession or inheritance in the case of a certain class of tenures fails to register his transfer in the landlord's *sarrishta* within a given time, the landlord can apply to the Deputy Commissioner to be put in *khas* possession of the tenure, such application being dealt with by a summary procedure. This provision in practice was found generally unworkable; for the objection almost invariably raised was that the tenure did not come within the class to which the law referred. Such objection the Deputy Commissioner naturally refused to decide summarily, and referred the parties to the Civil Court. It has therefore been considered by the Local Authorities quite unnecessary to retain this provision in the Act, and the Select Committee, agreeing with them, have proposed to strike it out. The zamindars, who are most concerned, have, except in one instance, agreed to this, and the Maharaja of Chota Nagpur, whose estate covers about 8,000 square miles of country, considers that the retention of such a provision is inadvisable The exception is the proprietor of the Padma or Ramghar estate, which includes about

two-thirds of the district of Hazaribagh. In this estate there are many tenures, of which the terms of the grants give the grantor the right of entry on failure of the grantee to pay the rent due. Such right the gentleman in question considers will be imperilled if the section in question be removed. The Select Committee failed to see how this can result. Moreover, if this section be elided, a means for blackmailing will be removed.

"At present the grantee of a resumable tenure or his direct heir sells the tenure to another person, reserving a nominal rent charge. The purchaser cannot register his sale in the zamindar's *sarrishta*, for the zamindar would by allowing this lose his right to resume the tenure on the happening of the contingency which gives him the right On the death of the seller his heir, on the threat that he will not register his transfer by inheritance and thereby give the zamindar an opportunity to resume the tenure, effectually in some instances blackmails the purchaser, or the heir goes to the zamindar and in collusion with him omits to register his succession and so gives the latter the requisite opportunity This state of things, in the opinion of the Maharaja of Chota Nagpur, should not be allowed to continue. In lieu of the existing procedure the revised Bill simply provides for the registration in the landlord's *sarrishta*, on payment of a fee of the transfer of any tenure, subject to certain provisos in order to safeguard the landlord's right to resume if the tenure is one liable to resumption. Inability to sue for arrears of rent is the penalty imposed on a transferee for failure to register, but no time, as proposed in the orginal Bill, is laid down within which he must register, for if that were done, then in case he omitted to comply with it, he could for ever be debarred from suing for arrears of rent.

"Clause 23 of the Bill provides a most momentous change in the interests of the landlords as regards tenures, and also a procedure for the sale of raiyati holdings. In Chota Nagpur there is a very large number of tenures resumable by the grantor or his successor in interest on the happening of a certain contingency, very often the failure of male heirs in the male line of the original grantee. Now the grantees, or their descendants, have in many instances parted with their grants to others, reserving for themselves some nominal amount of rent. The rents and cesses payable to the landlord fall into arrears The landlords, for fear of losing their rights to resume, cannot sue the transferees for the arrears, and it is useless to sue the heir of the original grantee Consequently for some time the landlords have been unable to realise their rents and cesses, and are losing very large sums of money. The changes now proposed to be made have the effect of enabling the landlord to sell up the tenures without imperilling their right to resume where they have such right.

"I now come to the portion of the Bill dealing with the subject of *Mundari khunt katidari* tenancies The *Mundaris* are an aboriginal people, the first so far as we know to occupy the Ranchi plateau. They number about four lakhs, are now mostly congregated in the eastern part of the Ranchi and the western part of the Singhbhum districts Others than *Mundaris* hold *khunt katti* tenancies in the Chota Nagpur Division, but as yet nothing has transpired to show the necessity for protective legislation with regard to them. In the Bill, as originally drafted, no provisions exist analogous to those that have now been inserted. Their omission was due, not to any failure to recognize the need of such legislation, but because the materials on which to base the requisite provisions had not been collected. To obtain the information, a careful and minute local inquiry was needed. This Mr. Lister, the Settlement Officer, has, during the working season of the past and part of the current year, carried out.

"Owing to the non-recognition of their rights, the *Mundaris* for more than three-quarters of a century have been in a state of agitation,

which from time to time has culminated in outbursts. In 1822 a horde of middlemen was let loose over the country by the then Maharaja of Chota Nagpur. These persons were up-country men. They were ignorant of, or oblivious to, the rights and customs of the aborigines, among whom naturally much discontent arose. This found a vent in the great *Munda* rebellion of 1832-1833, the immediate cause of which was an attempt by the Thakur of Sonpurgarh to destroy *khunt katti* rights in Bandgaon and Kochang in the district of Ranchi. The attempts to destroy the *khunt kattidars'* rights did not then cease, and they were the cause of the disturbances between landlords and tenants in that district in the year of the Mutiny. Both sides took advantage of the disorder that then prevailed—the landlords to oust the *khunt kattidars* who were holding at low permanent rentals, the *khunt kattidars* to recover the *khunt katti* lands which the landlords had previously succeeded in making *rajhus* or *manjhihas*, *i.e.*, raiyati or *sir*.

"Eventually the Chota Nagpur Tenures Act of 1869 was passed, and effected some improvement. But it omitted to deal with all the privileged lands, as it took no notice of intact *khunt katti* villages. This omission left such villages at the mercy of the spoliator. The destruction of the *khunt katti* tenancies went on, and the discontent thereby created brought about the outburst of 1888, when what is locally known as the *Sardar Zarai* began, and has not yet ceased. Utilising the bitter feelings of the *Mundaris*, some of their fellow-clansmen—they came to be known afterwards as *sardars*—persuaded the people that the Hindus had no right to the lands, that the lands belonged to the *Mundaris*, that no rents should be paid, and that the Sovereign had given a decree to this effect. The outburst that occurred at the time was put down, but it again broke out in 1899-1900 under the leadership of one Birsa, who styled himself a God.

"This prolonged disaffection is the reason that has led Government to have a survey and record-of-rights made of the *Mundari* country. But if steps are not taken to safeguard by legislation the rights of those people and to secure the finality of the record-of-rights, the latter by itself will not suffice to quieten the agitation. As long ago as 1839 it was reported that unless these people are protected in the possession of their lands, we never can be certain of the peace of the country. Once the necessary facts have been obtained, as is now the case, such legislation cannot be delayed, because the attacks which have been made on these rights so pertinaciously and for so long a time will be carried on with a greatly increased vigour, owing to the need of acting before the law can intervene.

"A *khunt kattidar* is the founder or the male descendant in the male line of the founder of the village in which are situated his *khunt katti* lands. The tenancy is of two kinds, the difference between them being merely one of area. It is either the tenancy of the whole brotherhood, the descendants of the original founder, or that of an individual member of the brotherhood over the lands in his immediate possession.

"The Settlement Officer, owing to the burial custom of the *Mundaris*, can easily ascertain whether the claim to hold certain lands as *khunt katti* is true or not. No *Mundari* can rightly be buried save in the burial ground of the village of which his ancestor on the paternal side was the founder. When a *Mundari* wished to found a new village he either alone or with some of his kinsmen on the paternal side obtained the jungle tract he desired. The area so acquired was invariably large, in some cases extending to square miles. His object was to bring by himself, or through his male descendants, portions of it under cultivation, but it was open to him or his male descendants acting jointly, to give portions to other *Mundaris* either to cultivate as raiyats or to establish other *khunt katti* villages. The system is one which originated long before the advent of the Hindus into Chota Nagpur. Originally no rent

[*Mr. Slacke*]

was payable, but this was changed. Rent and services came to be demanded, and were given. This rental was and is in most cases a permanent one, and cannot be enhanced save under certain circumstances as given in section 19 of the existing Act.

"It has therefore been found, *firstly*, that the landlord has no power of control over the internal affairs of the village. *Secondly*, that the *khunt kattidars* of a village must be the male descendants of one family, and hence members of the same *killi* or *gotra*. *Thirdly*, that the tenancy is not a tenure or a raiyati holding in the sense that now attaches to those terms, but that it partakes, to some extent, of the nature of both. *Fourthly*, that where the pure *khunt katti* system prevails there is no recognized system of transfer, save (*i*) to men of the same race, and that only for cultivation, or (*ii*) to *mahajans* temporarily for financial needs. *Fifthly*, that a transfer requires the joint consent of the brotherhood. *Sixthly*, that the resident male descendants of the original grantee have equal rights. *Seventhly*, that the rental can only be enhanced under the conditions given in section 19 of the Act.

"For the purposes of village administration it is necessary that there should be an executive and also a spiritual head. The former is the *Munda*, and the latter the *Pahan*. The grantee, if alone, combined both offices, and on his death his eldest son became the *Munda*, and his second son the *Pahan*. These posts became as a rule hereditary in the families of these sons. The *Munda* is the spokesman and representative of the brotherhood in secular matters relating to the village, and so far as the brotherhood is concerned has no greater rights than any of the other members. But in his name the village came to be registered in the *sarrishta* of the landlord, and hence arose one of the causes that has led to the disintegration of so many of these *khunt katti* villages and the discontent of the *Mundaris*. Seeing that the tenancy was in the name of the *Munda* only, the Courts treated him as a tenure-holder and the other members of the brotherhood as his tenants. Consequently when the rent fell into arrears he alone was sued, and his supposed rights sold. On getting possession the purchaser, an alien, proceeded to treat the other members of the brotherhood as if they were raiyats or even as mere tenants-at-will. The knowledge of this has also induced many *Mundas* themselves to destroy the rights of their weaker brethren, and thereby gradually obtain for themselves the position of petty zamindars.

"Wherever in a *khunt katti* village the process of disintegration has set in, there will be found some lands in the possession of the descendants of the original founder and held by them as *khunt katti* lands. Such portions of land were those that were registered and dealt with under the name of *bhuinharri* lands by the Special Commissioners who carried out the provisions of the Chota Nagpur Tenures Act, 1869. Babu Rakhal Das Haldar, an officer, who for over nine years was engaged on this work, described such lands as the remnants of the old *khunt katti* tenures.

"As I have already said, the Act to which I have just referred did not provide for the registration of whole *khunt katti* villages, though their nature and that of the *bhuinharri* lands was the same. In 1871 Mr. Oliphant, then Deputy Commissioner of what is now known as Ranchi, recommended that a simple demarcation with registration should be made of all such *khunt katti* villages in order to make the holders secure in the possession of their holdings. But Colonel Dalton, the then Commissioner, thought this would be exceedingly difficult, except as part of a regular revenue survey of the district. Accordingly the proposal was rejected by Government on the ground that nothing had occurred to bring the *khunt kattis* to special notice. It is much to be regretted that no such survey and registration was then effected. For since 1871 many villages, then wholly *khunt katti*, have ceased to be such. The work of destruction has been chiefly effected through the agency of the Courts

assisted by a political agitation in the shape of a refusal to pay rent and by the greed of the *Mundas*. Such villages became what, for want of a better term, I can only call mutilated *khunt katti* villages. They are to be found in all stages of decay, but in each are lands held by descendants of the founder and claimed as *khunt katti*. I have refrained from using the term *bhuinharri* to describe such lands because since the passing of the Act of 1869 a certain legal significance has become attached to that term, which it is not desirable to adopt here. Apart from this, however, the terms are really synonymous. They were so employed by Dr. Davidson in 1839, and are still so used by the people in the south-east of Ranchi.

"The sections in the revised Bill with regard to *Mundari khunt kattidari* tenancies embody what the Select Committee, after hearing and examining Mr. Lister, consider to be essential in order to allay, as far as possible, the agitation which has been going on for so long a time among the *Mundaris*. Their acceptance will greatly weaken the agitation, but will not satisfy the extreme party of the *Mundaris*, whose wishes are impossible of attainment, as they want the Government to go back to what, in their opinion, was the state of the country before the Hindus entered it.

"The objects it is desired to secure are (1) to prohibit sale; (2) to stop all forms of mortgage save that known as *bhooghut bundha*, and thereby prevent these savages becoming the serfs of money-lenders; (3) to follow recognized custom and allow certain forms of transfer to other *Mundaris*; (4) to invest the Deputy Commissioner with power to give effect to this prohibition of sale and certain restrictions on transfer; (5) to provide for the realisation of arrears of rent; (6) to secure the finality of the record-of-rights. The joint and individual responsibility of the members of the brotherhood of a *Mundari khunt kattidari* tenancy with regard to the rent will be noted in the record-of-rights as well as the nature of the right, whatever it may be, of the landlord to resume. As to prohibition of sale, I would point out that the idea of sale is repugnant to the *Mundaris*, wherever they have not come under the influence of alien theories. Writing in 1871, Mr. Oliphant, whom I have previously mentioned, advocated the enforcement by law of the prohibition issued in 1832-1833 by Captain (afterwards Sir Thomas) Wilkinson, the Governor-General's Agent, forbidding *Mundars*, to part with their lands to foreigners or aliens. Speaking of the rules under the Chota Nagpur Tenures Act in relation to *bhuinharri* lands, Mr. Webster, I.C.S., in 1875, pointed out that the right of transfer thereby granted was an innovation. Writing in 1880, Babu Rakhal Das Haldar, to whom I have already referred, stated with regard to *bhuinharri* lands that where they were held jointly or under the control of a single head *bhuinharri*, no transfer can be made unless with the consent of all the members. The procedure devised for the realisation of arrears of rent in the case of tenancies for which a record-of-rights has been prepared will, for the first time, give the *Munda* a practical means to compel defaulting members of the brotherhood to pay up their quotas. Hitherto he was quite unable to do this, as he had not the means, for the cost of a suit was prohibitive, since in individual cases the sums due amounted to only a few annas. Hence when through the advice of the *sardars* the members of the brotherhood refused to pay any rent the *Munda* was helpless, and when the *Munda's* own credit no longer sufficed to enable him to raise the requisite sum, the tenancy was sold up. Under the powers now proposed to be given, the Settlement Officer will be able not only to secure for the members of a *Mundari khunt katti* brotherhood in an intact *khunt katti* village the safe enjoyment of their tenancy, but will also be able to protect from further molestation the *Mundaris* who are the descendants of the original founder of a village and hold *khunt katti* lands in mutilated *khunt katti* villages.

[*Mr. Slacke.*]

"It may be asked why not, instead of these sections, employ the Chota Nagpur Tenures Act of 1869? To that I would reply that this Act either does not go far enough or goes too far. It does not provide for intact ***khunt katti*** villages. It provides no prohibition against sale. It does not regulate transfer other than sale. It does not provide for recovery of arrears of rent. It treats such tenancies as tenures, which they are not. Lastly, it provides for retrospective effect, and that in the present instance could not be asked for. I would here read to the Council what the Settlement Officer states on the subject, since it describes exactly what is intended to be done :—

'In other villages the descendants of the *khunt kattidars* are treated as ordinary raiyats by the *Munda* or by the Dikku zamindar. Here, too, we must ascertain what lands they have continued to cultivate from *khunt katti* days, and record them as *khunt katti*. Even if the zamindar has enhanced the rent of such lands, contrary to the customary rights of the cultivators, whilst we cannot repair the injury, we can prevent future wrong doing by recording the real nature of the lands.'

"Turning to the proposed amendments in the Commutation Act of 1897 (Bengal Act IV of 1897), it will be seen that in the revised Bill certain changes in procedure are proposed where a survey and record-of-rights is being carried out, and Government has issued an order under section 5 of the Act for the compulsory commutation of *rakumats* or payments in kind and predial services. The commutation of these *rakumats* and services having been decided on, the experience gained by the Settlement Officer shows that unless the procedure under the Act is assimilated to that for the record-of-rights, a large part of the work will have to be done twice over, and as the cost of commutation will have wholly to be met by the landlords and tenants, this will entail on them a heavy burden. To save this, which for the district of Ranchi alone would come to some lakhs of rupees, the change in procedure has been suggested."

The Council was adjourned to Saturday, the 1st August, 1903.

CALCUTTA;
The 10th August, 1903.

F. G. WIGLEY,
Secretary to the Bengal Council and Assistant Secretary to the Govt. of Bengal, Legislative Department.

P. S. Press, 3.9.1903.—575—50.—H. L. I.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 1st August, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. L. P. PUGH, *Offg.* Advocate-General of Bengal.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. F. A. SLACKE.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K.C.I.E., of Gidhour.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

NEW MEMBER.

The Hon'ble BABU KALI PADA GHOSH took his seat in Council.

[*Dr. Asutosh Mukhopadhyaya; Mr. Inglis; Mr. Slacke; Maulvi Seraj-ul-Islam, Khan Bahadur.*]

QUESTION AND ANSWER.

MUNSIFS' RESIDENCES.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—

In paragraph 48 of the Explanatory Notes on the Bengal Financial Statement for 1902-1903, it is stated that the allotment for original works includes a grant of Rs. 40,000 for Munsifs' residences. Will the Government be pleased to inquire and state whether the whole of this sum was spent during the year 1902-1903? If not, what is the reason? Will the Government be pleased to specify the names of the places where such residences were built during the year 1902-1903 out of this grant of Rs. 40,000?

The Hon'ble MR. INGLIS replied:—

"The actual expenditure incurred during the year 1902-1903 was Rs. 39,603 on residences for Munsifs at the places named below:—

1. Gumla.	9. Hathazari.
2. Cox's Bazar.	10. Kishoreganj.
3. Chandpur.	11. Hajipur.
4. Patya.	12. Patuakhali.
5. Perozepore.	13. Hatya.
6. Bhola.	14. Thakurgaon.
7. Atia.	15. Kishenganj.
8. Bagerhat.	16. Jamalpur. "

THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903.

The Hon'ble MR. SLACKE moved that the Report of the Select Committee on the Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SLACKE also moved that the clauses of the Bill be considered in the form recommended by the Select Committee.

The Motion was put and agreed to.

Clause 2.

The Hon'ble MR. SLACKE also moved that the following be inserted after sub-clause (*g*), in clause 2 (*2*) of the Bill, namely:—

'(*h*) "Mundari khunt-kattidari tenancy" means the interest of a Mundari khunt-kattidar.'

He said:—"The reason for this amendment will, I think, be obvious to the Council. In several sections of the Bill reference is made to a Mundari khunt-kattidari tenancy, but no definition of this has been provided. It seems therefore necessary to provide for this defect, and accordingly I would suggest the adoption of this amendment."

The Motion was put and agreed to.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that, in sub-clause (*h*) of clause 2 (*2*) of the Bill, the words "any Act for the time being in force for the registration of documents" be substituted for the words "the Indian Registration Act, 1877." He said:—

"This definition is given in the Bengal Tenancy Act, and I think it is more comprehensive than in the present Act, and could, with advantage, be adopted."

The Hon'ble MR. SLACKE said:—"I have nothing to urge against the acceptance of this amendment."

The Motion was put and agreed to.

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Slacke; Rai Tarini Pershad, Bahadur.*]

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, also moved that in line 5 of sub-clause (*n*), of clause 2 (*2*) of the Bill, the word "raiyats" be substituted for the word "tenants." He said:—

"This was the subject of some discussion in the High Court, and I fear that the use of the word 'tenants' might create some confusion. I therefore submit that we should substitute the word 'raiyats' for the word 'tenants.'"

The Hon'ble MR. SLACKE said:—"I am unable to support this amendment, and that for two reasons. In the first place, I am unable to satisfy myself that there is any definite ground for departing from the wording given in section 5 of the Bengal Tenancy Act, from which this was taken, and, secondly, because I am at a loss to understand why a tenure-holder should be deprived from creating an under tenure, which would be the effect if this amendment were adopted. For these two reasons, I cannot recommend to the Council the acceptance of this amendment."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, in reply, said:—"After the expression of opinion we have just heard from the Hon'ble Member in charge of the Bill, I do not desire to press my amendment."

The Motion was then, by leave of the Council, withdrawn.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that to sub-clause (*o*), of clause 2 (*2*) of the Bill, the following be added, as Explanation II, the Explanation which is already attached to the sub-clause being made "Explanation I," namely:—

'*Explanation II.*—A person acquiring at the same time a right to hold land both for the purpose of cultivating it by himself or by members of his family or by hired servants or with the aid of partners, and for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, or partly for one such purpose and partly for the other, is not a *raiyat* within the meaning of this definition.'

He said:—"In moving this amendment, I must say that I do not question the correctness of the definition of 'tenure-holder' in sub-clause (*n*) or that of 'raiyat' in sub-clause (*o*), so far as they go; but what I want, and I must insist upon, is an addition by way of explanation which will enable raiyats, tenure-holders, superior landlords and the Courts that may have to deal judicially in regard to questions arising before them to understand correctly the relative rights of such raiyats, tenure-holders and superior landlords. I must say also, Sir, that it will be dangerous to leave sub-clauses (*n*) and (*o*) alone without an Explanation.

"In venturing to support the amendment I have proposed, I must place before the Council certain facts which are material for arriving at a conclusion. The raiyati right must necessarily owe its origin to a contract, expressed or implied. I hold in my hand a paper-book of the High Court in a case which went from Hazaribagh to that Court in regular appeal. There are numerous farming leases, or counterparts of such leases, in this paper-book, all of which contain conditions to the following effect:—

'The farmer or the lessee shall cultivate lands by himself and cause lands to be cultivated by others. He shall collect rents from raiyats.'

"I have another paper-book in my hand which relates to a case that came to the High Court from the district of Bhagalpur. The lease in this case contains a condition as follows:—

'The lessee shall cultivate lands by himself. He shall maintain raiyats in possession, and shall collect rents from them.'

"I here crave leave to appeal to your Honour's experience in Bihar generally for a period of upwards of 20 years to bear me out, that the system of grant of farming known as *mostajir* leases are very common in that Province. My native home is in the district of the Sonthal Parganas, and I am connected with the district of Monghyr in several ways. These districts

are next-door neighbours to the district of Hazaribagh, in the Ranchi Division. I do possess some knowledge of the habits and customs of the people of some portions of the Ranchi Division. In all these places, so far as I know, farming leases and their counterparts are systematically exchanged. The land tenures in India are well understood at the present day. But when we deal with them in legislative measures and undertake to define the rights of the holders thereof, it is desirable to give a complete, or at any rate sufficiently comprehensive, shape to the definitions to prevent difficulties and litigations in future. In the absence of an explanation of sub-clauses (*n*) and (*o*), the difficulty that I have met with in very many cases since the Bengal Tenancy Act came into operation justifies the amendment I propose. Suppose, Sir, on the expiry of the term of a farming lease, when the out-going farmer, who has succeeded in bringing under his cultivation a large area during his possession, sticks to the possession of such area and refuses to quit possession thereof, saying: 'I acquired right to cultivate lands in the estate.' 'I have cultivated lands.' 'I have paid rents for the same.' 'I am legally entitled to hold on.' 'I am a raiyat with or without right of occupancy.' 'I was not a tenure-holder in respect of such lands, and I am not bound to quit possession thereof otherwise than in due course of law'.

"I submit, Sir, under these circumstances that with the definitions in sub-clauses (*n*) and (*o*), the superior landlord will find difficulty in turning him out of possession of such lands, standing alone, and at all events a wide door to serious litigation will be opened in Chota Nagpur, as has been done in places where the Bengal Tenancy Act is in force.

"It is not a difficult task for the farmers and *mostajirs* to bring under their grasp large areas by dispossessing poor raiyats in Chota Nagpur, or otherwise bringing waste lands, easy of reclamation, lying in the estates under their *khas* possession. They will make encroachments upon the village rights—rights and privileges of raiyats which were recognized during the time of the Hindus and the Muhammadan Government, and which, up to the present day, have been recognized by the British Government. Our Statutes have proceeded throughout on the lines of the ancient rights and privileges of the raiyats and the customary incidents attaching thereto. If the definition of a 'raiyat' in the Bill be not made sufficiently comprehensive and clear, the result will be to leave the parties, their advocates and the Court to straining, turning, twisting and torturing of the words used in sub-clauses (*n*) and (*o*) without being able to arrive at any reasonable and fair conclusion."

The Hon'ble MR. SLACKE said:—"I cannot, Sir, advise the Council to accept this amendment. In the first place, the object of the amendment is to prevent farmers of rents, *thikádár*, and such like persons from acquiring, during the currency of their leases, a right of occupancy in the lands let to them under such leases. When introducing the Report of the Select Committee on this Bill, I pointed out that, owing to the absence of the necessary data, which cannot for some years be furnished by the Settlement Officer, we were now unable to deal satisfactorily with the question of occupancy right as a whole. Secondly, although the subject-matter of this Bill has been under discussion for a very long time, not one single zamindar has pointed out the necessity of having such a clause in the Bill. In the absence, therefore, of any such proved need, to accept this amendment would, in effect, be to abandon the principle that guided the Select Committee in dealing with the Bill. It would also be very dangerous to deal any further with the question of occupancy right when, as I have already pointed out, we lack the requisite information on the subject.

"Should, however, events occur which, in the opinion of the local officers, would require action to be taken to prevent by law farmers, etc., from acquiring occupancy rights in the lands covered by their leases and, if such need arise, before the Act as a whole could be revised, the Government can, by extending section 22 (*3*) of the Bengal Tenancy Act to Chota Nagpur, provide a sufficient remedy at once.

"I would therefore suggest that this amendment be rejected."

[*Babu Chaturbhooj Sahay; Dr. Asutosh Mukhopadhyaya; Babu Kali Pada Ghosh; Maulvi Seraj-ul-Islam, Khan Bahadur.*]

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"The amendment which is sought to be introduced by the Hon'ble Rai Tarini Pershad, Bahadur, is that in cases where one and the same person has got two functions as it were, namely, that of a raiyat and that of a tenure-holder, then so far as he cultivates land by himself or by hired labourers, he should not be deemed a raiyat within the meaning of this sub-clause (*o*). But, then, the amendment that he moves seems to be unnecessary, as will be seen if we refer to the following portion of sub-clause (*o*): 'A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder, or immediately under a Mundari khunt-kattidar.' Let us suppose that *A* takes a lease from the proprietor of a village, and that he is also permitted to cultivate a portion of the land in the village as a raiyat. Now he cannot be a raiyat unless he holds immediately under the proprietor; but he does not hold immediately under the proprietor because the village has been leased, nor immediately under the tenure-holder because he does not hold under the tenure-holder, he being himself the tenure-holder. So such a person cannot be a raiyat because he would be holding under himself, he himself being the tenure-holder. Therefore that part of my friend's amendment seems to be covered by the paragraph that appears after the Explanation to sub-clause (*o*). He cannot be a raiyat because a raiyat has to pay rent to the zamindar or *málik*, and he cannot pay either to himself or to the *málik*, because the *málik* is the lessor of the land. Under these circumstances, the amendment seems to me to be unnecessary."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The amendment moved involves a serious question of principle, and I do not intend to record a silent vote against it. It seems to me quite clear that, as a matter of principle, this amendment ought not to be accepted. A tenure-holder under the Act means primarily a person who acquires land not for the purpose of cultivating it himself, but for the purpose of settling tenants on it and collecting rents from them. A raiyat, on the other hand, is defined to be primarily a person who acquires land for the purpose of keeping it himself and cultivating it either by himself, or by the members of his family or by his servants, or with the aid of partners. My hon'ble and learned friend is contemplating the case of a person who acquires land for both these purposes, or partly for one of these purposes and partly for the other, and wants us to hold that his function is that of a riayat, and that he should not be regarded as a tenure-holder. I submit that this is entirely wrong on principle. Suppose a man acquires 100 bighas, and in his lease it is stated that he may either cultivate it himself or settle tenants thereon; if he cultivates the entire 100 bighas himself, I take it that the inference should be that he is a raiyat. If, on the other hand, he settles tenants on the 100 bighas, he should be regarded as a tenure-holder. My hon'ble and learned friend says: 'No, if he has a lease in which it is stated that he may use it in either way, he can never be regarded as a raiyat although he cultivates the land himself.' In the same way if he takes 50 bighas and settles tenants thereon and takes another 50 bighas for cultivating it himself, my hon'ble and learned friend says he cannot be regarded as a raiyat in respect of the one and as a tenure-holder in respect of the other. I submit this cannot possibly be a correct view of the matter."

The Hon'ble BABU KALI PADA GHOSH said:—"I submit that I cannot support the amendment of my hon'ble and learned friend for two reasons. In the first place, in considering the circumstances of Chota Nagpur, it is not an urgent amendment, and, in the second place, the object contended for by my hon'ble and learned friend is very well met by another amendment which he subsequently moves and with which I have every sympathy."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—"I am also opposed to this amendment on this simple ground that, if carried, it would limit the meaning of the word 'raiyat.' I would like to see the meaning of 'raiyat' to be as wide as possible, and do not think it should be restricted in the way proposed by this amendment."

[*Rai Tarini Pershad, Bahadur; Dr. Asutosh Mukhopadhyaya; Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Slacke.*]

The Hon'ble Rai Tarini Pershad, Bahadur, in reply said:—"When we are defining 'tenure-holder' and 'raiyat,' we must not leave the definitions defective. I submit, Sir, for the reasons I have already given, they should be made clear. The necessity for defining 'raiyat' and 'tenure-holder' has arisen, and they should be defined clearly, and what I want falls clearly within the legitimate scope of the Bill. I, therefore, must say that the Council should see their way to accept the amendment I have moved."

The Motion was then put and lost.

The Hon'ble Rai Tarini Pershad, Bahadur, also moved that after sub-clause (*o*), in clause 2 (*2*) of the Bill, the following be inserted, namely:—

'(*p*) "Under-raiyat" means a tenant holding, whether immediately or mediately, under a raiyat.'

He said:—"I thought there would be some difficulty if, in the Bill as it stands, an Explanation of this sort was not inserted, but having had the benefit of a discussion with the Hon'ble Member in charge of the Bill, and having regard to the fact that the Bill does not deal with 'under-raiyats,' I have considered it proper to withdraw this amendment, and I accordingly do so."

The Motion was then, by leave of the Council, withdrawn.

New Clauses.

The Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Council, withdrew the following motions, of which he had given notice, namely:—

"That after clause 2 of the Bill the following be inserted, namely:—

'2A. In section 5 of the said Chota Nagpur Landlord and Tenant Procedure Act, after the word "raiyat," the words "and every Mundari khunt-kattidar" shall be inserted.

'2B. (*1*) In section 6 of the said Chota Nagpur Landlord and Tenant Procedure Act, after the words "twelve years" the words "and every Mundari khunt-kattidar who has cultivated land for a period of twelve years" shall be inserted.

'(*2*) In the same section, after the word "raiyat," in the second place in which it occurs, the words "or Mundari khunt-kattidar" shall be inserted.'"

In doing so, he said:—"The Hon'ble Member in charge of the Bill has satisfied me that these amendments are not required, and I beg leave to withdraw them."

Clause 3.

The Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Council, also withdrew the following motions, of which he had given notice, namely:—

"That in the first paragraph in the new clauses in clause 3 of the Bill, after the word 'raiyat' the words 'or Mundari khunt-kattidar' be inserted.

"That in the second paragraph in the new clauses in clause 3 of the Bill, after the word 'holds' the words 'and every Mundari khunt-kattidar who cultivates' be inserted."

The Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, moved that the following be inserted in clause 3 of the Bill, namely:—

'The words "so long as he pays the rent payable on account of the same," in section 6 of the said Chota Nagpur Landlord and Tenant Procedure Act, are repealed.'

He said:—"I may remind Hon'ble Members that these words 'so long as he pays the rent payable on account of the same' are to be found in Act X of 1859, but they were subsequently omitted, and I must say advisedly omitted in the Act of 1885. It appears to me, however, that these words in the clause are ambiguous and meaningless. If they are allowed to stand, a tenant who has acquired a right of occupancy by holding for 12 years may lose his right if he fails to pay rent for a year or two. I may also tell the Council that the right of ejectment was given to landlords, but in the present Act that right has been taken away. Therefore I submit that these words, 'so long as he pays the rent payable on account of the same', should be omitted."

The Hon'ble Mr. Slacke said:—"I have nothing to say against the proposed amendment."

[*Babu Chaturbhooj Sahay; Mr. Gupta; Babu Kali Pada Ghosh; Dr. Asutosh Mukhopadhyaya; Maulvi Seraj-ul-Islam, Khan Bahadur.*]

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"I am afraid I must oppose this amendment. My hon'ble and learned friend says that these words find a place in Act X of 1859. I may go further and state that they were also reproduced in Act VIII of 1869. Then my hon'ble friend quotes the authority of the Bengal Tenancy Act, and says that it is not to be found there. But I do not see that anything that is to be found there or not to be found there should be our guide in legislating for the Chota Nagpur Division. Chota Nagpur, as we all know, is not so advanced as the rest of Bengal, and what would apply to Bengal proper might not apply in any way to Chota Nagpur, and hitherto this has been the law that has prevailed there without any complaint, and without anything in fact to disturb the relations between the landlord and tenant on this point. Therefore, I submit that a law that has existed up to now without having given rise to any friction should not be taken away. The principle of the amendment was not recognized in the original Bill, nor is it in the revised Bill, but now my hon'ble and learned friend is seeking to amend section 6 of Act I of 1879 in this way, and I think that this is not the proper time or the proper place to change a portion of the law which has answered very well up to this time. Why then deprive the zamindar of this privilege or this benefit of section 6 that he has enjoyed so long? My hon'ble friend will bear me out that there is no justification for seeking to introduce this amendment at this stage, and I also submit that it is not required either for the exigencies of the State or for any administrative purposes."

The Hon'ble MR. GUPTA said:—"I am afraid that the Hon'ble Babu Chaturbhooj Sahay is under a slight misapprehension in opposing this amendment. It is true that these words did occur in the older Act and not in the Act that we are now going to amend. The landlord had the right of ejecting the tenant on failure to pay rent, and there was no sale of his occupancy rights. Therefore it was rightly stated there that he forfeits his occupancy rights on failure to pay rent, thereby giving the landlord the right to eject him. But in the present Bill, we take away the right of ejectment and we make the occupancy right saleable. Therefore, if we say that on failure to pay rent he loses his occupancy rights, what shall the landlord sell? If he has defaulted for two years and the landlord gets a decree for arrears of rent, and under this clause the tenant shall have forfeited his right of holding, and if he has forfeited his right, how can that right be sold? Since we are taking away the right of ejectment and giving landlords the right of selling occupancy holdings, we should make the Act consistent with that. I think that the alteration of the law that we have made by this Bill necessitates this change in order to make the Act consistent in itself."

The Hon'ble BABU KALI PADA GHOSH said:—"I am strongly in favour of the amendment which will meet the position, instead of placing landlords in the worst position possible as proposed by the Hon'ble Babu Chaturbhooj Sahay. Now in this Bill we make occupancy rights saleable in execution of a decree for arrears of its own rent. Under the late Act, which we are amending, the zamindar's only remedy was by ejectment, and that right has been taken away in the case of occupancy holdings and this right substituted, and, as has been very rightly pointed out by the Hon'ble Legal Remembrancer, unless we accept the amendment, it can be very well contended that, in not paying arrears of two or three years' rent, the raiyat has lost his occupancy right, and therefore there being no right, the occupancy holding cannot be put up for sale as the Bill now provides. I therefore hope that the amendment will be carried."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am strongly in favour of this amendment for the reasons stated by the Hon'ble Mr. Gupta."

The Motion was then put and carried.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, also moved that the words "so long as he pays the rent payable on account of the same" in clause 3 of the Bill, be struck out.

[*Mr. Slacke; Rai Tarini Pershad, Bahadur; Babu Kali Pada Ghosh; Mr. Gupta.*]

The Hon'ble Mr. Slacke said:—"I have nothing to urge against this amendment."

The Motion was put and agreed to.

The Hon'ble Rai Tarini Pershad, Bahadur, moved that the following be added at the end of clause 3 of the Bill, namely:—

'Any person holding land as a farmer or other tenure-holder shall not, while so holding, acquire a right of occupancy in respect of any land comprised in his farm or tenure, even though he may have cultivated it by himself or by members of his family or by hired servants or with the aid of partners.

'*Explanation*—A person having a right of occupancy in land does not lose it by subsequently holding the land in farm or tenure.'

He said:—"I submit that this amendment is necessary and desirable. A similar provision in the Bengal Tenancy Act is my justification for bringing forward this motion. A farmer or *mostajir* cannot acquire raiyati right by holding land while he holds the farm. If he, while holding as a farmer or *mostajir*, acquires occupancy right by purchase or other mode of transfer, he is welcome to it. A provision, such as I seek by my amendment, is desirable."

The Hon'ble Mr. Slacke said:—"I am unable to advise the Council to accept this amendment. The reasons which I gave with regard to item 6 in the agenda apply equally to the present amendment proposed. In the first place, it is not a matter of urgency at all. None of the zamindars, or those who have property in Chota Nagpur, have ever asked that this should be brought into the present Bill. In the second place, we are dealing with a subject, as I remarked before, about which we stand at present in a great deal of ignorance. Whenever necessity should arise, the Executive Government can, by notification, extend the operation of section 22 (*2*) of the Bengal Tenancy Act to Chota Nagpur or any portion thereof. This is a point which has not yet arisen. For these reasons, I cannot accept the adoption of this amendment."

The Hon'ble Babu Kali Pada Ghosh said:—"I feel bound to say that I am in favour of this amendment; but if you ask whether I consider it one of extreme urgency, I say no; but this raises a question so well established that I am strongly in favour of this amendment. Whenever such cases arise in Chota Nagpur, we are obliged to look for all the cases on the subject. This point has been decided by the High Court, and this amendment does not make any change in the existing law, but its object is simply to codify the cases. That being so, I am bound to support the amendment."

The Hon'ble Mr. Gupta said:—"The reasons which have been adduced by the Hon'ble Babu Kali Pada Ghosh are the very reasons for which I beg to oppose the amendment, because the law is so clearly established, independent of any express provision, that we do not require this express provision in the Act. This provision has been no doubt inserted in the Bengal Tenancy Act, but in so doing the Legislature only recognised the case-law as it stood then, and, as far as the cases go back, even under the Act of 1859 (Act X of 1859), it was held by the High Court that a farmer who cultivates land for himself cannot acquire the right of occupancy. I believe the reason is this,—that the right of occupancy is a right really adverse to the landlord. It is a right acquired in derogation to the proprietor's right. The right of occupancy means that the raiyat says: 'I hold this in spite of you.' Now, if a farmer holds land under himself, he cannot acquire a right adversely to himself. He cannot acquire any right in derogation of his own right. It is upon this principle that it has always been held that a farmer cannot acquire any right of occupancy in any land which he himself cultivates. That being the state of the law, what is the necessity of introducing this amendment into a simple Act of this kind, when we are dealing with a non-regulation province, where we want to make everything as

[*Mr. Gupta; Mr. Pugh; Dr. Asutosh Mukhopadhyaya; Babu Chaturbhooj Sahay.*]

simple as possible? Of course, there are many excellent principles in the Bengal Tenancy Act, which might, with advantage, be extended to this Act, but we have not thought it proper to do so, *firstly*, because there is no necessity for it, and, *secondly*, if any necessity is proved, the Government has power to extend any provisions of the Bengal Tenancy Act to Chota Nagpur. My hon'ble friend has not shown that the introduction of this principle into Chota Nagpur is necessary; but as soon as it is shown that it is necessary, the local authorities have only to move the Government in order to extend this particular provision of the Tenancy Act into Chota Nagpur. That is to say, if the Courts of Chota Nagpur pass any decision contrary to the principle, the interference of the Government will be necessary. Legislation will not be necessary. It will only be necessary to extend the provisions of the Tenancy Act into Chota Nagpur by a notification in the Government Gazette. The Hon'ble Babu Kali Pada Ghosh, whose experience in Chota Nagpur has been very long, does not say that the Courts of Chota Nagpur have ever given a decision that is contrary to the case-law on the subject. Therefore, if the case-law on the subject is clear and there is no necessity for this amendment, I think we ought to leave it alone."

The Hon'ble MR. PUGH said:—"I also think that the amendment ought not to be accepted. I think it is extremely undesirable to put in any clauses from the Bengal Tenancy Act into this Act for which there is no sufficient reason made out. Although the Bengal Tenancy Act says that a tenure-holder cannot acquire a right of occupancy under certain circumstances, I venture to think it is unnecessary to insert such a provision here.

"There is another objection from my point of view, and that is the wrong use of the word 'farmer' here. You speak correctly in saying a farmer of taxes or a farmer of leases, but when you speak of a man as a farmer of land, it means one who farms land, that is to say, a cultivator. That is the meaning of the word in the English language, but here it means only a person who is a farmer of land. A man who holds land as a cultivator is a farmer, and a farmer in that sense of the word is not a tenure-holder.

"But apart from that objection which is a mere matter of language, I think the amendment ought not to be accepted as it is unnecessary."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I cannot support the amendment. No doubt it is right in principle, but the principle is so firmly established that nobody can question it. It was laid down by the High Court so far back as 1864, and it was confirmed by the Judicial Committee of the Privy Council in the case of Messrs. Jardine, Skinner & Co. in 1878. Consequently it seems to be absolutely unnecessary to accept this amendment. Besides, if Hon'ble Members will compare it with section 22 of the Bengal Tenancy Act, they will find that the two are identical, with this difference only that the Hon'ble Member has not incorporated the Explanation to that section: 'A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder or by subsequently holding the land in *ijara* or farm.' If we accept the amendment, the question might arise as to what was to happen in the case of a person who had a right of occupancy and subsequently held in *ijara*. I think that section 22, clause (*3*), might be introduced into the Chota Nagpur Act, but then that is not really necessary having regard to the case-law on the subject."

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"I am afraid I cannot give my vote in favour of the amendment. It is said that there is a provision in the Bengal Tenancy Act, and this salutary provision ought to be put into this Act. This is no reason why we should accept this amendment or incorporate this principle of law into the Chota Nagpur Act. It is admitted that the Chota Nagpur Act is very different in many respects and at present a great many changes are not desirable, and we were told in the Select Committee that it was limited in its scope, and that no new principle should be introduced unless an urgent case was made out. We should not alter the law unnecessarily.

[*Babu Chaturbhooj Sahay; Rai Tarini Pershad, Bahadur; Mr. Slacke; Dr. Asutosh Mukhopadhyaya.*]

The case-law on the subject establishes beyond all possible doubt that a farmer or *ijaradar* cannot have rights of occupancy in any land comprised within his lease, so whether we borrow this section from the Tenancy Act or not, it is all the same, and it does not affect the well-recognised principle of law that an *ijaradar* cannot acquire rights of occupancy. Therefore, unless we are prepared to borrow or incorporate other sections of the Bengal Tenancy Act, there is no use of adopting this one."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, in reply said:—"Notwithstanding what has been said, I would press my amendment."

The Motion was then put and lost.

New clause.

The Hon'ble MR. SLACKE moved that after clause 3 of the Bill the following be inserted, namely:—

'3A. In section 7 of the said Act, before the words "the last preceding section" the words "the first two paragraphs of" shall be inserted.'

He said:—"By this Bill we have added two new paragraphs to section 6. Previous to that addition there was no reason to alter the wording of section 7 of Act I of 1879, but owing to the addition of these two paragraphs, it has become necessary to insert these words. Unless this be done then the effect will be that contracts can be entered into which in effect will deprive raiyats of the rights conferred on them by the two new paragraphs which the Bill proposes to add to section 6 of the Act. To allow such to occur would be highly inadvisible, and for this reason I would ask the Council to accept this amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am in some difficulty about this amendment, but I take it, it has been rendered necessary by the addition of two new paragraphs to section 6. Section 7 now says: 'Nothing contained in the last preceding section shall be held to affect the terms of any writtton contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.' No doubt this was applicable to section 6, to which two new paragraphs have since been added, and the effect of the amendment proposed would be to make the exception in section 7 inapplicable to the new paragraphs. If this is the intention, I do not see any objection to the amendment."

[At this stage, with the leave of the President, the Member in charge of the Bill conferred with the Hon'ble Dr. Asutosh Mukhopadhyaya on this point, with the result that the latter expressed himself satisfied.]

The Motion was then put and agreed to.

Clause 4 (section 10A).

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that for proviso (*b*) in section 10A, in clause 4 of the Bill, the following be substituted, namely:—

'(*b*) Nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1903.'

He said:—"I submit that nothing can be put forward by way of objection with regard to the principle which underlies the provision here. What I submit for the consideration of the Council is, that sub-clause (*b*) ought to be amended so as to include any decree which has already been passed for sale of a holding. That is my object. The Bill already provides that nothing in this section shall affect the terms or conditions of any contract registered before the first day of January, 1903. Evidently that refers to contracts like simple mortgages which authorise the mortgagee to sell the property. Speaking here of decrees, which have already been passed, it may be said that the provision already made in respect of contracts registered before the 1st January will protect decrees which have been already passed upon mortgages executed

before the 1st of January, 1903; but I submit that, having regard to the provisions of the Registration Act, there are cases in which mortgages are as valid and as good as registered mortgages, provided the value of the mortgage security on land does not exceed Rs. 100. Therefore, it is quite possible to see that there might be decrees already passed, based upon mortgages of Rs. 100 or less, which ought to be protected on the same ground as contracts registered before the 1st January, 1903."

The Hon'ble MR. SLACKE said:—"I have nothing to say against the proposal."

The Motion was put and agreed to.

Clause 4 (section 10B).

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that sub-section (2) in section 10B, in clause 4 of the Bill, be struck out. He said:—

"I submit that section 10B gives no right of transfer to a tenant except a very limited right and for a limited period, namely, that a tenant has no right to transfer his holding or tenure except this, that he may lease or mortgage for a term not exceeding five years. But that limited right under this section is made subject to the consent in writing of the zamindar. If the sub-clause (2) be allowed to remain as it is, the result will be that this right to transfer will be practically *nil*. In fact, it will be almost impossible to get the written consent of the landlord. The amendment will not prejudice the landlord, because under the law the arrears of rent has been made the first charge; but if this clause is allowed to stand, it will deprive the tenant of the benefit which this section is intended to give."

The Hon'ble MR. SLACKE said:—"I am unable, Sir, to support this amendment. In the first place, the inability which the learned and hon'ble member who moved the amendment considers would attach to the raiyat if this sub-section be retained will not in practice exist. The right of a raiyat to transfer his holding or part of it is, at present, not binding on the landlord unless the latter's consent to the same is obtained. In spite, however, of this, numerous transfers are now made, and thus it will be seen that the raiyat will be in no way penalized should this sub-section be retained. Furthermore, I am unable to understand why an arrangement made between two persons should be binding on a third party who has had no cognizance of it, and when no custom can be pleaded in support."

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"I submit, Sir, that the amendment is not necessary, and the absence of the landlord's consent in writing will not debar the raiyat from transferring his right in his holding for a limited period. One raiyat may transfer his holding to another, but it is not necessary that the landlord should be bound to accept it. The transfer between raiyats *inter se* is one thing, and its acceptance by the *malik* is another, but the absence of the *malik's* consent would not in any way interfere with the transfer of the holding to another raiyat at all. There are various reasons why the *malik* may object to recognise the transfer. The holding itself may not be transferable; but when one raiyat chooses to transfer to another, it does not concern him to inquire into the question at all as to whether the tenure is saleable or not; but in order to carry on agricultural pursuits he may transfer, but then it is another thing that the landlord should recognise such transfer. Therefore there may be a transfer, but that transfer will not be binding on the landlord unless his consent is given."

The Hon'ble BABU KALI PADA GHOSH said:—"I regret I cannot support this amendment. I was unable to follow my hon'ble friend, the mover of this amendment, when he said that if this clause is allowed to stand, the

effect will be that no transfers can be made by a raiyat, unless he gets the previous consent of the landlord. The section as it stands does not lay down such a thing. It simply lays down that no transfer by a raiyat of his holding shall be binding on the landlord, unless he has obtained the landlord's consent in writing. It is one thing to make it binding on the landlord, and it is another thing to allow the raiyat to transfer his holding. Sub-clause (*3*) is as follows:—

'No transfer in contravention of sub-section (*1*) or sub-section (*2*) shall be registered or shall be in any way recognised or acted upon by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.'

"Now if this was allowed to stand, what my hon'ble friend apprehends might happen, but I understand sub-clause (*3*) is to be amended in the next motion by striking out the words 'or sub-section (*2*).' I do not think it can be contended that a raiyat in making a transfer would be put to the necessity of obtaining his landlord's consent, but the only effect will be that unless it is made with the landlord's consent, it will not be binding upon him. My hon'ble friend was contemplating the case in which he said that the occupancy rights would be sold, and the rent would be the first charge; but he lost sight of the fact that these mortgages and leases can be granted also in non-occupancy holdings. There also the remedy is by ejectment. The landlord cannot avoid this lease or this mortgage unless he makes the lessees or mortgagees parties, and that would certainly bring in an obligation which it would be next to impossible for a landlord to comply with. I do not think that this sub-clause, as it stands, will in any way hamper the raiyat in making a transfer."

The Hon'ble Mr. Macpherson said:—"This, Sir, seems to be a difficult question. Under the Bengal Tenancy Act, the right of transfer by an occupancy raiyat of his entire holding is left to custom. Under section 88 of the Bengal Tenancy Act the subdivision of a holding is not binding on a landlord unless he gives his consent in writing; but section 85 declares certain powers of sublease.

"Now, by this Bill, we are limiting, as several speakers have said, the right to transfer by the raiyat very considerably. Clause (*1*), sub-clause (*1*) of section 10B leaves the raiyat a very modified right of transfer. Then sub-clause (*2*) goes on to say that exercise even of that modified right shall not be binding on the landlord, unless his consent has been obtained in writing. This does not mean that the raiyat will not be able to exercise the modified right of transfer at all without the landlord's consent. It means only that the transferree will take the holding or part of the holding or field at the risk of the landlord's refusal to recognise the transfer. We have gone considerably further than the Tenancy Act in this matter; and if I thought that there was any serious danger to the raiyat that he would be seriously impeded in his agricultural credit, I should vote against the sub-clause under discussion. Take again, for instance, the case of a poor woman making a sub-lease of her lands which she is not able to cultivate, her husband having died. It is very common in such cases for land to be sublet for a term until the children are grown up and able to cultivate. If I thought that such an arrangement would really be impeded by this sub-clause, I should vote against the sub-clause. But we have gone far in sub-clause (*1*) to modify and limit any rights of transfer which may exist by law or custom in Chota Nagpur at this moment; and I think that the further step taken in sub-clause (*2*) may be approved subject to re-consideration when with fuller knowledge we again revise the law. I ask myself what grievance the transferrer or transferree would have if the landlord refused to recognise the transfer? What could the landlord do? How could he treat the transferree who has been put in possession for the short term of five years defined by sub-clause (*1*)? Could he treat the transferree as a trespasser, and is there any likelihood of any hardship arising? I think that if the transferree takes care that the rent is paid to the landlord, the landlord will not be able to touch him. In this belief I agree to let the sub-clause stand, and I shall vote against the amendment."

[*Dr. Asutosh Mukhopadhyaya ; Maulvi Seraj-ul-Islam, Khan Bahadur, President.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I entirely agree with the observations of the Hon'ble Member who spoke last. The question raised by this amendment is no doubt one of very great difficulty, but after anxious consideration I have come to the conclusion that it ought not to be accepted. Under the Bengal Tenancy Act the question whether a raiyat is entitled to transfer his holding or not depends upon whether there is a custom of transferability or not. If there is a custom he has the right, otherwise not. It has been said that by section 10B of the Act we are going to restrict the right of transfer, but I submit that this is hardly a correct view to take. This assumes that raiyats and *ijaradars* are entitled to transfer, and of course if they are so entitled, the provisions embodied in section 10B may be correctly described as a restriction on their rights. But, I take it, the truth is that raiyats are not entitled to transfer, although in some places they endeavour to do so. I take it, therefore, that the correct view of section 10B is that it accurately defines the position of the raiyat so far as the question of transfer is concerned; it lays down that he is entitled to transfer under certain circumstances, that is to say, in the first place, he is entitled to lease out his holding, provided the lease is for not more than five years, and in the second place, he is entitled to execute a *bhagut bandha* mortgage, if the period does not exceed five years. If the raiyat does either of these two things, there is no reason why the landlord, behind whose back the transfer takes place, should in any way be bound by the transaction. In fact, the question of the landlord being not bound by the transaction ought not to arise if the transferree is cautious. The question of the landlord being [illegible] and only arises if the landlord seeks to eject the transferree, and that contingency can only arise when the rent is not paid. Therefore if the rent is paid in, if the *bhagut* [illegible] valid,' mortgagee is careful to see that the landlord gets his rent, the question of the views transaction being binding on the landlord will never arise. On the other [illegible] is not careful to see that the rent is paid, the landlord is entitled [illegible] not bound by your transfer, my rent is in arrears, and I am [illegible] to proceed against the holding.'"

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, in reply, said:—"I do not think I should take up the time of the Council by making a long reply, but I would only point out that from the Report of the Select Committee it appears that the wording of this clause has been taken from the Bengal Tenancy Act, section 88. The Select Committee say: 'We have also provided, on the analogy of section 88 of the Bengal Tenancy Act, that no transfer of a raiyat's rights shall be binding on the landlord, unless it is made with his consent in writing.' Well, that section 88 of the Bengal Tenancy Act refers only to the subdivision of the holding. It says: 'A division of a tenure or holding or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.' This section 10B goes a great deal beyond the Bengal Tenancy Act in putting restrictions on the raiyat in the transfer of his holding or tenures. Some of the Hon'ble Members have said what will be the effect of this section and how the transferree will be hampered and how the tenant will be hampered. It appears that this modified right of transfer is given to the tenant to enable him to raise a loan in a time of emergency, but I submit that when it is found that it is subject to the landlord's consent, the tenant or raiyat will not be able to raise the money, as no *mahájan* will give a loan and take a mortgage when he finds that it is subject to the landlord's consent. I humbly submit that this section will defeat the object of the Legislature, that object being to enable poor tenants to raise a loan on a *bhagut bandha* mortgage, limited to a period of five years. Therefore I submit that, in spite of the weight of authority being against me, I feel that it will be disastrous to allow this section to remain as it stands, as it will in effect prejudice the tenant's rights."

The Motion was then put and lost.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, also [illegible] words "or sub-[illegible]ou (2)," in sub-section (3) of section 10B, in [illegible]

The Hon'ble MR. SLACKE said:—"I support this amendment, Sir, for it is the same as the one that stands against my name in item 19 of the List of business."

The Motion was put and agreed to.

The Hon'ble MR. SLACKE, by leave of the Council, withdrew the following motion, of which he had given notice, namely;—

'The words "or sub-section (2)," in sub-section (3) of section 10B, in clause 4 of the Bill, be struck out.'

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that the word "criminal," in sub-section (3) of section 10B, in clause 4 of the Bill, be struck out. He said:—

"I submit that although a document or deed be not stamped, it may be admissible in certain criminal cases which are set forth in the Stamp Act. If I remember rightly, although such documents are not admissible in certain Courts, they may be admissible in criminal cases. Therefore, I submit that the Council should accept this amendment."

The Hon'ble Mr. SLACKE said:—"I strongly oppose this amendment. The result, Sir, of accepting the amendment in question would be to frustrate the object for which section 10B [illegible] en framed. If such transfers are to be recognised or acted upon by Ci said:—"rts, then it will be perfectly clear to any one who has had ex[illegible]enancy of criminal law that persons can be maintained in possessi[illegible] holdingond the periods laid down in this section. I would further adv[illegible] Act the subd now objected to was inserted in the sub-clause on th[illegible]advice of A[illegible] consel. Taylor, who for many years was Judicial Commis[illegible] of st[illegible] of Chota Nagpur, and was eventually a Judge of the High Court. [illegible] these reasons, Sir, I would ask that this amendment may be negatived.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"I beg to strongly oppose the amendment of my hon'ble and learned friend. With reference to this, Sir, I beg to submit that no question of admissibility arises here. Under the Bill as it stands certain transfers shall not be recognised or acted upon.

"Clause (3) of section 10B says:—

'No transfer in contravention of sub-section (1) or sub-section (2) shall be registered, or shall in any way be acted upon by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.'

"Section 33 of the Stamp Act does not touch the question of recognition of the transfer or of its being acted upon. Section 33 says:—

'(1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument chargeable, in his opinion, with duty is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

'(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

[*Rai Tarini Pershad, Bahadur; Mr. Pugh; Mr. Slacke; the President.*]

(3) For the purposes of this section, in cases of doubt,—

(*a*) the Governor General in Council may determine what offices shall be deemed to be public offices; and

(*b*) the Local Government may determine who shall be deemed to be persons in charge of public offices.'

"This section would not allow an unstamped document to be let in evidence in proceedings of a *quasi*-civil nature under Chapters XII and XXXVI. If Criminal Courts be struck out from the category of Courts which should not recognise such transfers, it would be open to Magistrates to recognise these documents even in cases which are of a *quasi*-civil nature, and therefore it would be dangerous to allow the amendment proposed by my hon'ble and learned friend."

The Hon'ble MR. PUGH said:—"With reference to this amendment, I feel the difficulty which has occurred to the hon'ble mover. I think at the same time that the amendment will go too far, because in Criminal Courts we have not only the trial of criminal offences, but we have also cases with regard to possession, cases particularly relating to land, and it will never do to have this clause amended in this way. At the same time I would suggest to my hon'ble friend, the Member in charge of the Bill, that this section does at present g[illegible] far. Now as regards such an instrument not being recognised or acted upon by a Criminal Court, supposing the question turns upon a charge of murder, or on a charge of forgery, or on various other charges, you must recognise it, and act upon it, and rely upon it, but you need not recognise it as valid. Therefore what I would venture to suggest to the Hon'ble Member in charge of the Bill is, that you should alter the wording here by putting in after the word 'recognise' the words 'as valid,' leaving out the words 'or acted upon.' I hope that will also meet the views [illegible] hon'ble and learned friend, the mover."

The Hon'ble MR. SLACKE said:—"I a[illegible] to accept the amendment [illegible] by the Hon'ble the Advocate-[illegible]neral on the word[illegible] of section 10B."

The Hon'ble the PRESIDENT said:—"[illegible] think that the amendment pro[illegible] by the Hon'ble the Advocate-General amo[illegible]nts to a substantive amendm[illegible] clause, and that it must therefore be separately considered: the [illegible]cedure will be to first take the decision of the Council on the amendm[illegible] forward by the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur."

The Motion was then put and lost.

The Hon'ble MR. PUGH, by leave of the Council, moved that in sub-(3) of section 10B, in clause 4 of the Bill, the words "as valid" be sub[illegible] for the words "or acted upon."

The Hon'ble the PRESIDENT said:—"I understand that the Hon'ble Mem[illegible] in charge of the Bill accepts the amendment proposed by the Hon'ble the Advocate-General. Sub-clause (3) will then read:—

'No transfer in contravention of sub-section (1) or sub-section (2) shall be registered or shall in any way be recognised as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.'"

The Motion was put and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that the following be [illegible]d to section 10B, in clause 4 of the Bill, namely:—

'(5) Nothing in this section shall affect the validity of any transfer (not otherwise invalid) of a raiyat's right in his holding or any portion thereof made *bonâ fide* before the first day of January, 1903.'

He said:—"The Bill provides for giving effect to contracts registered before the 1st of January, 1903. My amendment for a similar protection of [illegible] passed before that date has just been carried, and my present am[illegible] [illegible] protection for transfers [illegible] invalid [illegible]

[*Mr. Slacke; Rai Tarini Pershad, Bahadur; Babu Chaturbhooj Sahay.*]

The Hon'ble Mr. Slacke said:—"I would, Sir, accept this amendment."

The Motion was put and agreed to.

Clause 5.

The Hon'ble Rai Tarini Pershad, Bahadur, also moved that to section 11, in clause 5 of the Bill, the following be added, namely:—

'(3) The officer referred to in sub-section (1) may award to the landlord such sum as he thinks fit, not exceeding Rs. 25, as compensation, if in his opinion an application made by a tenant under this section is frivolous and vexatious.'

He said:—"You have provided for penalties against zamindars in cases of illegal exaction and for refusal to grant receipts to tenants for payments made by them. In holding the balance evenly, you should provide for a penalty if raiyats resort to frivolous and vexatious complaints against the zamindars. A one-sided legal remedy for a legal wrong is not desirable. I submit that there should be a penalty against raiyats in such cases, and that it should be in the shape of a compensation, the maximum of which should not exceed Rs. 25. That seems to me to be a very equitable provision. Of course, there is a provision in section 182 of the Indian Penal Code, but that would be very much out of the way, and that section makes provision in respect of false informations evidently to the criminal authorities and relates to criminal matters. The Deputy Commissioner should be empowered under some provision like the one proposed, when he finds that any false or vexatious complaint has been brought by a raiyat, to fine him Rs. [illegible], or any sum up to Rs. 25. This would save time and trouble [illegible] instigated to the parties concerned; otherwise raiyats may be induced [illegible] and if they do no[illegible]lse complaints, because if they succeed, [illegible] and [illegible] running a provision of [illegible]eed, they go scot-free. I submit there [illegible] sub-clause [illegible] Hon'ble Member in [illegible] kind, and urge it upon the considera-[illegible]s of Council." [illegible]ge of the Bill and the other Hon'ble Co[illegible]

[illegible]e Hon'ble Mr. Slac[illegible]

[illegible]pt. The point is on[illegible]said:—"This amendment is not one I am prepared [illegible]opp[illegible]tee, who were of [illegible] which was most carefully considered by the Select [illegible] this [illegible]Penal Code were [illegible]ion that the provisions of section 182 of the [illegible] the [illegible]y cause to differ [illegible]e sufficient to meet any such evil, and I am unable [illegible] likely to create [illegible]n this opinion. To accept this amendment would [illegible] would be injudic[illegible]care amongst these aboriginal raiyats, which in my [illegible] be rejected and [illegible]s. I would therefore suggest that this amendment [illegible]eguard is needed than [illegible]hat it be left to time to show whether any further [illegible]Code. Not one single [illegible]at which is provided by section 182 of the Indian Penal [illegible] provision of this kind [illegible]amindar has ever thought it worthwhile to ask that a [illegible] zamindars themselves [illegible]ould be drafted into the Bill. It is clear then that the [illegible] of this nature. Und[illegible] to not consider that there is any necessity for a provision [illegible] to accept this ame[illegible] these circumstances, I am unable to advise the Council [illegible]nent."

The Hon'ble [illegible]

[illegible] being discussed [illegible] Babu Chaturbhooj Sahay said:—"When this matter was [illegible] like this put in [illegible] Select Committee, I was in favour of having a provision [illegible] against their [illegible] the Bill, so that it might prove a check to evil-minded raiyats [illegible] when the [illegible]odging complaints without any foundation whatever. No doubt, [illegible] and tenan[illegible] Bill was introduced, we heard that the relations between landlord [illegible] raiyats [illegible] there were to a certain extent strained. No wonder then that the [illegible] and pu[illegible] might be putting forward frivolous complaints to harass the landlords [illegible] himse[illegible] them to trouble as much as possible. It might be that he would get [illegible] exculpated or acquitted, but in the meantime he is put to trouble and [illegible]e and expense, and so I submit that, when this matter is being re-con-

[*Dr. Asutosh Mukhopadhyaya; Babu Kali Pada Ghosh; Mr. Macpherson; Mr. Pugh; Rai Tarini Pershad, Bahadur.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am unable to accept this amendment, and for this reason. Section 11, as it now stands, is a counterpart of section 75 of the Bengal Tenancy Act, which also provides a penalty for exactions by landlords from tenants in excess of rent lawfully payable. So far as the tract of country to which the Bengal Tenancy Act is applicable is concerned, no one has ever suggested that tenants are in the habit of laying false charges for the purpose of harassing landlords, and I believe there is no foundation for the suggestion that tenants in Chota Nagpur may take to this course. I take it that our duty is to legislate for the actual needs of the society in which we live, and not to anticipate imaginary evils and provide for them."

The Hon'ble BABU KALI PADA GHOSH said:—"If the Hon'ble Members would refer to section 11, which lays down that in certain cases of exaction raiyats 'shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid,' they will find that this is not a new thing which has been inserted: we had it under the old law, but the old law was found inoperative as it stands. Under the old law, the raiyat in such cases was obliged to bring a suit in the Revenue Court, and he could not bring this to the notice of the Court by application, as is now provided in the present Bill. The conditions of Chota Nagpur are such that it is very likely that many vexatious cases might arise and landlords might be harassed, and certainly it might be that there is much force in the arguments in favour of the amendment, but having regard to the different local conditions, I think all those who have local experience are agreed that section 11 should be amended in the way provided for in the Bill. There are a large number of landlords who treat their raiyats exceedingly well, but there are another classes of landlords in Chota Nagpur who are of the habit of making extortions from raiyats, and that was considered one of the principal grounds on which these amendments were made. It was for this reason thought highly desirable to have such a section whereby these raiyats can come to the Court without having to incur the expense of a suit, and therefore we thought it necessary to amend section 11. The original section 11, as it was drafted in the Bill, came to the Select Committee with a maximum penalty of Rs. 500. That was considered too high, and the Select Committee very properly reduced it to Rs. 200. I think, having regard to the requirements of the district, section 11 should be allowed to be amended as provided in the Bill, and I cannot therefore support this amendment."

The Hon'ble MR. MACPHERSON said:—"I think, Sir, that the amendment proposed is a reasonable one, that it is fair to landlords, and that it might be useful to put this power in the hands of Revenue-officers to prevent and punish frivolous and unfounded agitation. For these reasons I shall vote for the amendment."

The Hon'ble MR. PUGH said:—"For my own part I do not think it desirable to encourage people to come forward with these claims for Rs. 25, or whatever the compensation may be. What we have in the Bengal Tenancy Act is, that a tenant in these circumstances has a right to bring a suit.

"You have a provision in the Penal Code which provides for these things. There is section 182, under which a man is liable, and I object also altogether upon principle to make a man doubly liable, under the Penal Code, to a certain penalty and under this Act to a fine of Rs. 25. Therefore upon these grounds I trust that the Council will throw out this amendment."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, in reply, said:—"This amendment has been opposed by several Members who, while admitting the correctness of the principle, observed that the provision sought is not urgently required. With regard to that I must say that I feel grievously embarrassed when want of necessity and want of urgency is made the ground of opposition. How can we settle the matter so far as necessity goes? I submit these are [illegible] to which provision would be necessary in Chota Nagpur

relations of landlords and tenants, the necessity like this would arise. We have, I submit, a provision to the effect that if a landlord extort money from the tenant in an illegal manner, he is liable to a penalty. We have a provision that if a zamindar receives rent from a tenant and does not give a receipt, he is liable to penalty. Then why should not there be a penalty for improper conduct on the part of the tenant? From what has fallen from my learned friend on my right, who has no doubt very much better experience than myself, necessity like this exists. It is simply a matter of common sense. The person exercising this power will always be a competent officer, and he will not exercise this power until he finds it necessary. Unless there is a check like this, much harm will be done. The Hon'ble Dr. Asutosh Mukhopadhyaya says that complaints have not come to him: he has not heard of complaints like this from zamindars. I say with great submission and great respect that such an argument would be very much like an argument in a circle. We have to judge upon facts, and we already know the conditions of the country that we have to deal with, and in these circumstances I submit that a provision like this is necessary."

The Motion was then put and lost.

Clause 6.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in sub-section (*1*) of section 12, in clause 6 of the Bill, after the word "rent" the words "or interest due thereon" be inserted. He said:—

"This is a very small amendment, and it obviously brings section 12 into line with section 11. The first paragraph of section 11 says:—

'A landlord who, except under any special enactment for the time being in force, levies from a tenant any money in excess of the rent legally payable with interest thereon or any *rakumata* or predial services to which he is not legally entitled, shall, on application to the tenant, be liable.'

"Section 12 says:—

'Every tenant who makes a payment on account of rent to his landlord shall be entitled to receive forthwith from the landlord or his agent a receipt signed for the same in a form prescribed by the Local Government from time to time by notification in the Calcutta Gazette.'

"Therefore I submit that the words 'or interest due thereon' ought to be inserted."

The Hon'ble MR. SLACKE said:—"I would, Sir, accept this amendment."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by way of amendment, moved that the words "or both" be inserted after the word "thereon" in the above motion. He said:—

"I would support the amendment, but I think there ought to be the words 'or both' added after 'thereon,' so that it would run in this way: 'Every tenant who makes a payment on account of rent or interest thereon, or both, etc.' There are many cases in which rent is paid and principal is paid, or there may be cases in which only interest is paid, and again there may be cases in which both are paid."

The Hon'ble DR ASUTOSH MUKHOPADHYAYA said:—"I am quite willing to accept the suggestion."

The Motion was then put in the amended form and carried.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in clause (*a*) of sub-section (*4*) of section 12, in clause 6 of the Bill, for the words "for rent paid by the tenant" the words "as aforesaid" be substituted. He said:—

"This is a purely verbal amendment necessitated by the amendment which has just been carried."

The Hon'ble MR. [illegible] said:—"I have no objection to offer."

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Slacke; Rai Tarini Pershad, Bahadur.*]

Clause 7.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that the following be added at the end of clause 7 (*3*) of the Bill, namely:—

'or (*c*) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent.'

He said:—"The reason for this amendment is that this proviso finds a place in the Bengal Tenancy Act, section 61, from which it is taken. Clause (*a*) says that when an under-tenant, raiyat or Mundari khunt-kattidar who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused, or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it or to grant him a receipt for it, he may deposit the money. The next clause is with reference to the case where rent is payable to co-sharers jointly. These are the two cases in which he is allowed to deposit the rent. Now in section 61 of the Bengal Tenancy Act there are four clauses, namely:—

'(*a*) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;

'(*b*) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;

'(*c*) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

'(*d*) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent.'

"Of these clauses, (*a*), (*b*) and (*c*) are covered by section 13, clause 7, sub-clause (*3*) (*a*) and (*b*), of the Bill, but (*d*) is omitted. I submit that (*d*) ought to be embodied and inserted after clause (*b*), section 13 (*3*). My reason is that this Bill recognises the right of co-sharers. Where a zamindar brings a suit for rent, an intervenor may claim the rent, and a tenant may be in doubt as to whether the rent should be paid to *A* or *B*. Therefore I submit that where a tenant has a *bonâ fide* doubt as to whom he should pay the rent to, he ought to be given the option of depositing the money."

The Hon'ble MR. SLACKE said:—"I am, Sir, unwilling to accept this amendment, since to do so would be violating the principle that guided the Select Committee in dealing with the provisions of the Bill. Nothing exists to show that there is any necessity for accepting this amendment, and should any such fact hereafter arise, it can be promptly dealt with by the issue of a notification extending to Chota Nagpur the appropriate sub-clause of the Bengal Tenancy Act."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"My hon'ble and learned friend has no doubt the Bengal Tenancy Act in justification of the amendment moved by him. But my experience has shown me that in cases of doubtful title, where several persons claim the same right, a deposit by the raiyat always proves infructuous. No doubt he finds different claimants claiming rent from him. He does not know, it is true, who is the party entitled to rent from him. But who is the judge in the question? The tenant is certainly not expected to be so. It is not easy for him to decide. It is a matter for *a forum*. If he deposits his rent in Court on the grounds of *bonâ fide* doubt as to who is entitled to receive the rent, the Court in which the rent is deposited is unable to pay to anybody until the question of title is settled in a Court of Justice. I must, however, notice that there is another ground for justification of my hon'ble friend's amendment. It is this. If the raiyat deposit the rent, he can tell the claimants he has already deposited the rent due by him in Court, which might in some cases save him from the botheration of demands by the claimants. But if we weigh the *pros* and *cons*, the scale of reasonableness will preponderate rather in favour of the Bill as it stands than in favour of the amendment moved. I therefore [illegible] not support the amendment."

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Dr. Asutosh Mukhopadhyaya; Mr. Slacke.*]

Clause 9.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That to clause 9 of the Bill the following be added, namely:—

'In the same section, after the word "rent" the words "(other than the amount deposited)" shall be inserted.'"

Clause 10.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to clause 10 of the Bill the following be added, namely:—

'In section 17 of the said Act, after the word "rent" the words "or interest thereon" shall be inserted'

He said:—"I need not repeat the reasons urged by me in support of my amendment No. 23 on the list, which has been already carried. They apply equally to this amendment."

The Hon'ble MR. SLACKE said:—"I would, Sir, accept this amendment."

The Motion was put and agreed to.

New clause.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that the following be inserted after clause 10 of the Bill, namely:—

'10A. (1) Before the proviso to section 24 of the said Act the following shall be inserted, namely:—

"Provided that if the Deputy Commissioner, when passing a decree for enhancemant, considers that the immediate enforcement of the decree in its full extent would be attended with hardship to the under-tenant or raiyat, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached."

'(2) After the word "Provided," in the same section, the word "also" shall be inserted.'

He said:—"I submit that this would be for the benefit of the tenant. This has been taken *verbatim* from section 36 of the Bengal Tenancy Act, and I submit that it would be for the benefit of the tenant if such a power were given to the Deputy Commissioner who could, in certain circumstances, direct that there should be a gradual enhancement instead of granting the enhancement at once."

The Hon'ble MR. SLACKE said:—"For two reasons, Sir, I am not in favour of accepting this amendment. In the first place, it deals with the subject of the enhancement of rent. Admittedly the Act is defective with regard to the safeguards relating to enhancement; but, as I have already pointed out, we cannot, owing to the lack of the requisite data, say what these safeguards should be. Secondly, the section of the Act in which the learned and hon'ble member would wish to include this amendment does, as it stands, enable the Deputy Commissioner to provide for the very object which the Hon'ble Member contemplates by his amendment, for it says that the Deputy Commissioner 'may otherwise alter or vary the rent for such land as to him may seem fair and reasonable.'

"That being so, it seems to me unwise to tamper with the question of enhancement when confessedly we are not in possession of the requisite data. For these reasons I would ask the Council to reject the amendment."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, in reply, said:—"I do not think the law, as it stands, covers a case like that. The present [illegible] no doubt gives the Deputy Commissioner wide discretionary powers

[*Maulvi Siraj-ul-Islam, Khan Bahadur; Babu Kali Pada Ghosh; Mr. Slacke; Rai Tarini Pershad, Bahadur; Dr. Asutosh Mukhopadhyaya.*]

not give power to direct that the enhancement should be gradual. Of course, if the Hon'ble Members think that the law, as it stands, covers the case, I do not think it necessary to go on with this."

The Motion was then put and lost.

Clause 11 (section 28B).

The Hon'ble BABU KALI PADA GHOSH moved that the words "or the holding of an under-raiyat having occupancy rights," and the words "or the holding of an under-raiyat not having occupancy rights," in section 28B (*1*), in clause 11 of the Bill, be struck out. He said:—

"The expression 'under-raiyat' is to be found nowhere in this Act, nor is it defined in the Act. Section 28B has been copied from the Bengal Tenancy Act, and is a mere reproduction of section 113 of that Act. Of course the section of the Bengal Tenancy Act contains these two expressions, but in this Act this expression will have no meaning and may lead to complications. Therefore, I submit, their retention is not desirable, and they may be struck out."

The Hon'ble MR. SLACKE said:—"I have nothing to urge against this amendment."

The Motion was put and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That the words 'or the holding of an under-raiyat having occupancy rights,' in section 28B (*1*), in clause 11 of the Bill, be struck out."

In doing so, he said:—"I beg leave to withdraw this amendment, as it is fully covered by the amendment which has been moved and carried."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by leave of the Council, also withdrew the following motion, of which he had given notice, namely:—

"That at the end of sub-section (*2*) of section 28B, in clause 11 of the Bill, the following be added, namely:—

'or from the date of the final decision in any suit, or of any order in any other proceeding, referred to in section 28A, altering the said record-of-rights.'"

In doing so, he said:—"I will not press this amendment. I have had the benefit of a discussion with the Hon'ble Member in charge of the Bill, and I have in consequence decided to withdraw it. I accordingly ask permission to withdraw this amendment."

New clause.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That after clause 11 of the Bill, the following be inserted, namely:—

'11A. In section 29 of the said Act, after the word "raiyat," in both places in which it occurs, the words "or Mundari khunt-kattidar" shall be inserted.'"

In doing so, he said:—"The Hon'ble Member in charge of the Bill has satisfied me that this amendment, as well as the one which stands in my name and is No. 35 on the agenda, that in section 32A, in clause 14 of the Bill, after the word 'raiyat' the words 'or Mundari khunt-kattidar' be inserted, are not required, and therefore I withdraw them."

Clause 13.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that in section 31, in clause 13 of the Bill, the words "or *Sambat*" be inserted after the word "Bengali." He said:—

"This is simply a verbal amendment, and it is necessary. So far as I [illegible] there should be no discussion about this matter, as it is [illegible]

Mr. Slacke; Dr. Asutosh Mukhopadhyaya.]

The Hon'ble MR. SLACKE said:—"This amendment, Sir, is the same as he one standing against my name in the next item of business, and I would therefore accept it."

The Motion was put and agreed to.

The Hon'ble MR. SLACKE, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That in section 31, in clause 13 of the Bill, the words 'or *Sambat*' be inserted after the word 'Bengali.'"

Clause 14.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That in section 32A, in clause 14 of the Bill, after the word 'raiyat' the words 'or Mundari khunt-kattidar' be inserted."

Clause 16.

The Hon'ble MR. SLACKE moved that in section 34 (*4*), in clause 16 of the Bill, after the word "paid" the words "or tendered" be inserted. He said:—

"The object of this amendment is to prevent a transferree being harassed by his landlord. If the words in question be not added, it will be open to a landlord to refuse to accept payment of the fee, and thereby to restrain the transferree from bringing any rent suit. This power is clearly not one which should be given the landlord, and I would therefore ask that this amendment may be adopted."

The [illegible] was put and [illegible] d to.

The Hon'ble MR. SLACKE said [illegible] ection 34 (*4*), in clause 16 of the [illegible] or:—"It is now, Sir, for me to move that after '(*4a*) [illegible] the case of any such [illegible] Bill, the following be inserted, namely:— Nagpur Tenancy (Amendment) [illegible] limit between the date of the transfe[illegible] "Provid[illegible] ransfer made after the commencement of the Chota [illegible] Act, 1903, if a longer period than one year has elapsed he transferree or his successor [illegible] r and the date of the application for the registration thereof, payable as aforesaid for any peri[illegible] in title shall not be entitled to recover as aforesaid any rent '(*4b*) In the case of any s[illegible] od longer than one year. Nagpur Tenancy (Amendment) [illegible] such transfer made before the commencement of the Chota not made within one year from s[illegible] Act, 1903, if an application for the registration thereof be elapsed between such commencem[illegible] ch commencement, and if a longer period than one year has transferree or his successor in ti[illegible] ment and the date of the application for registration, the payable as aforesaid for any period [illegible] le shall not be entitled to recover as aforesaid any rent [illegible] longer than one year.'

"But I have to-day had the [illegible] advantage of learning the opinion of the Hon'ble Dr. Asutosh Mukhopadhyaya on [illegible] this amendment, and in lieu of my own wording I would beg to be allowed to su[illegible] stitute the following, which has been drafted by the learned and hon'ble Membe[illegible] and which embodies the principle I have in view more strongly than what my o[illegible]

'That for sub-section (*4*) of section 34, in clause 16 of the Bill, the following be substituted, namely:—

'(*4*) Every application for the registration of a transfer under sub-section (*1*) must be made, in the case of a transfer which occurred before the [illegible] commencement of the Chota Nagpur Tenancy [illegible]nt) Act, 1903, within one year [illegible] ch commencement, and, in the case of a [illegible] rring after such commencement, within one year from the date of the transfer.

'(*4a*) [illegible] application for the registration of any tran[illegible] fer of a tenure or portion thereof [illegible] not made, and the registration-fee paid or tendered, as [illegible] ereinbefore prescribed, the transfer [illegible] or his successor in title shall not be entitled to [illegible] recover, by suit or other [illegible] payable to him [illegible] date of the [illegible]

[*Mr. Stocks; the President; Dr. Asutosh Mukhopadhyaya; Rai Tarini Pershad, Bahadur.*]

"The object of section 34 (*4*) is to put pressure on transferrees to register their transfers in the *sarishta* of the landlord, by enacting that as long as such registration is not applied for and the requisite fee not tendered, the transferree can bring no rent suit against his tenants. I have never been satisfied with regard to the efficacy of this provision. In the Land Registration Act we know that in spite of the fines which can be inflicted on proprietors of estates for non-registration of transfers, the provisions of that Act are constantly neglected. It is impossible for me to suggest that a landlord should be allowed to fine a transferree of a tenure for neglecting to register the transfer in his *sarishta*, and I have been considering what addition could be made to this sub-clause with a view to strengthen the pressure which it is designed should be brought to bear on the transferree to register the transfer. Obviously, inability to sue the raiyat for arrears of rent is very weak. In a very large number of instances the relations between the transferree and his tenants are harmonious, and consequently no need to sue them would arise. Under such circumstances, it would be useless for the superior landlord to tell the transferree's tenants not to pay, as the transfer not having been registered, they would not be sued. The result would be that the transferree would apply for registration and tender his fee, and bring the requisite suits. Then the tenants would discover that their refusal to pay had resulted in their having to meet the costs of the suits, and that they were at their own expense fighting the superior landlord's battle. Lately it was suggested to me that if provision was made to prevent the transferree recovering by suit any amount of rent that had accrued to him for the period between the date of transfer and the date of application for registration in excess of one year's demand, then transferrees would quickly register their transfers in the zamindar's *sarishta*. This suggestion appeared to me to provide for the want I felt, and it has therefore been embodied in the present amendment."

The Hon'ble the PRESIDENT said:—"I understand the Hon'ble Member in charge of the Bill, the amendment as it stands in the [illegible] agenda is withdrawn, and he desires in its place to move the following:—

'(*4*) Every application for the registration of a transfer under sub-section (1) must be made, in the case of a transfer which occurred before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, within one year from such commencement, and, in the case of a transfer occurring after such commencement, within one year from the date of the transfer.

'(*4a*) If application for the registration of any transfer of a tenure or portion thereof is not made, and the registration-fee paid or tendered, as hereinbefore prescribed, the transferree or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to him as the holder of the tenure or portion which may have accrued due between the date of the transfer and the date of the application for registration.'"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I entirely agree with the observations which have fallen from the Hon'ble Member in charge of the Bill; but, with reference to this amended amendment, I may be permitted to point out that if only a slight verbal change is made, it will be possible for us not only to omit (*4a*) and (*4b*), but also to omit the whole of paragraph 4 itself."

The Hon'ble the PRESIDENT said:—"As this is an important amendment and has been sprung upon the Council without time for consideration, I think the best course will be to leave the consideration of this amendment till the end of the day."

The consideration of the revised amendment was postponed till later in the day.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that in sub-section (*3*) of section 34, in clause 16 of the Bill, the following be inserted before existing sub-clause (*i*), namely:—

'to affect the validity of a transfer of any tenure or portion thereof when [illegible] the transferree or his successor in title has not been [illegible] in the [illegible]

transfer has been recognised by the zamindar or superior tenant by instituting a suit for the recovery of rent due in respect of the tenure or portion, or if the transfer has taken place in execution of a decree for arrears of rent due in respect of the tenure or portion.'

He said:—"When a landlord sues a transferree for rent, though he has not been registered and has not paid the landlord's fee, he virtually admits his position, which admission amounts to a definite recognition of the transfer. The transferree is brought into the same position when the landlord himself brings the property transferred to sale in execution of his own decree for rent. There may be a small question for consideration in this connection. The section under consideration deals with the right of the transferree to recover rents from his tenants, and not with the question of the validity or otherwise of the transfer. Therefore I submit that there ought to be a provision in the law to the effect that if the landlord himself has brought a suit against the transferree for arrears of rent, or if a transfer has taken place at the instance of the superior landlord in execution of a decree for arrears of rent, no objection to the validity of a transfer like this could be taken only upon the ground that it has not been registered, and only upon the ground that the landlord's fee has not been paid. The landlord can always enforce his claim. Under these circumstances, I think the amendment ought to be accepted. Of course there may be a little difference as regards the wording, and if any Hon'ble Member would prefer to say that instead of the words 'to affect the validity of a transfer' the words 'to affect the right of a transferree to recover rent' be substituted, I have no objection. Perhaps my amendment would meet with approval if altered in this way."

The Hon'ble MR. SLACKE said:—"I am not prepared, Sir, to accept this amendment. I am unable to see any need for it or to recognise that it meets any existing want, nor can I see why such persons should be exempted from paying the registration-fee demanded by the landlord."

The Hon'ble BABU KALI PADA GHOSH said:—"I regret I cannot support this amendment, which as it stands presupposes that a landlord, having brought a rent suit against a transferree or having put the tenure to sale and the purchaser having purchased the tenure, admits the transfer, and therefore it is not necessary that this class of transferrees should register their names in the landlord's *sarishta* under the new law. I beg to submit that section 34 deals with a particular class of tenures in Chota Nagpur, which are called *jágir* tenures, and the circumstances of these tenures are quite different from permanent tenures in Bengal. The purchaser of these tenures was under the old law obliged to register his name in the *sarishta* of the superior landlord, and I would refer my hon'ble and learned friend to section 35 of the old Act which has been repealed by the present Bill. Section 35 ran thus:—

'The provisions of the last preceding section shall also be applicable to the sale of such under-tenures as are mentioned in section 123, and to the sale of the right and title of any person under section 124.'

"This practically means that the purchasers in sales held under sections 123 and 124 of the Act now being amended were under the necessity of registering their names in the *sarishta* of the superior landlord, and the mere fact that the superior landlord put the property to sale did not exonerate them from registration. So, if we accept my hon'ble friend's amendment, it will have this effect—that the transfers which took place by execution sale before the commencement of the new Act will not be registered in the *sarishta* of the superior landlord, and section 35 of the Act would be made nugatory to that extent."

The Hon'ble MR. PUGH said:—"I would venture to appeal to the hon'ble mover to relieve the Council from further discussing this amendment by withdrawing it. If a man sues the transferree, it is perfectly impossible that he should say afterwards, 'I question the transfer to him,' and if this amendment is at all necessary, then it will follow that a man might sue the transferree first, and then afterwards take objection to the validity of the

The Hon'ble RAI TARINI PERSHAD, BAHADUR, in reply, said:—"The High Court has held that the moment a suit is brought for recovery of arrears of rent against a transferree, the suit itself amounts to a recognition of the title of the transferree. However, if there be any difficulty in the acceptance of this amendment, I leave it there."

The Hon'ble the PRESIDENT said:—"As the amendment has not been withdrawn, it will be put to the Council."

The Motion was then put and lost.

Clause 18.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in clause 18 (2) of the Bill, for the words "or other person in actual possession of the tenure" the words "or his successor in title" be substituted. He said:—

"I need not give any reason for this amendment other than the one that the words which I propose to substitute better express the meaning than the words in the section."

The Hon'ble MR. SLACKE said:—"I would, Sir, accept this amendment."

The Motion was put and agreed to.

The Hon'ble BABU KALI PADA GHOSH, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That in clause 18 (2) of the Bill for the words 'or other person in actual possession of the tenure' the words 'or his successor in title' be substituted."

In doing so, he said:—"I beg, Sir, to withdraw this amendment, which is identical with the one just accepted."

Clause

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that in clause (a) of section 36A, as inserted by clause 19 of the Bill, for the words "lease of" the words "interest in" be substituted. He said:—

"This clause has been taken from the Sale Law (Act XI of 1859), section 37, clause (2), and the words 'any lease of land' have been the subject of many decisions of the High Court, and the object of the Legislature appears to be to protect from ejectment persons who hold land on which a 'dwelling-house, manufactory or other permanent building has been erected', and so on. I may remind the Council that the Sale Law entirely sets aside and frees purchasers from encumbrances except in these cases. I submit that these words 'interest in' should be substituted for 'lease of.'"

The Hon'ble MR. SLACKE said:—"I am, Sir, unable to adopt this amendment. The point is one which was very carefully considered by the Select Committee, the legal members of which, among whom was the learned Advocate-General, were unanimously of opinion that no such alteration as the one now proposed was required."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"I regret that I have to oppose this amendment. There seems to be a little difference here as regards conveyancing. So far back as 1859, we find that this word was adopted in the Revenue-Sale Law, and my learned friend says we should use the words 'interest in' in preference to the words 'lease of.' I submit that the word 'lease,' which means nothing more or less than the letting of land, is more appropriate and at the same time more comprehensive than the word 'interest.' We also find that the word 'lease' has been in fact recognised and acted and approved ever since it was brought into the Revenue Sale Act (XI of 1859). We do not see any reason for making this particular alteration which

[*Dr. Asutosh Mukhopadhyaya; Babu Kali Pada Ghosh; Mr. Slacke; Babu Chaturbhooj Sahay; Rai Tarini Pershad, Bahadur.*]

The Hon'ble Dr. Asutosh Mukhopadhyaya said:—"I feel bound to oppose this amendment, as the word 'lease' is a well understood legal expression. Apart from that, the words 'any interest in land' will have a much wider meaning than the words 'any lease of land.' For instance, if my hon'ble friend's amendment is accepted, protection will be extended to mortgages if only within the mortgaged premises there is a dwelling-house. I submit that in such instances we shall be going much further than the Revenue Law or the Bengal Tenancy Act, and I do not think any case has been made out for such extension."

The Hon'ble Babu Kali Pada Ghosh said:—"I also oppose the amendment on the ground put forward by my hon'ble friend."

The Motion was then put and lost.

Clause 20.

The Hon'ble Mr Slacke moved that in clause 20 of the Bill, for the words "or on account of the refusal of receipts for rent paid," the following be substituted, namely:—

'on account of the illegal exaction of rent or of any unauthorised cess or impost, or on account of the refusal of receipts for rent paid, or,'

He said:—"The reason for this is the same as that which induced the Select Committee to suggest that from this very clause, *viz.*, (*2*) of section 37 of the Act, should be omitted the words 'or on account of the refusal of receipts for rent paid.' The Bill in the section to be substituted for section 11 of the existing Act provides a new remedy, apart from that by suit, for the prevention of illegal exaction of rent. It is not desirable therefore, that the remedy by suit, which exists in the present Act should be retained. In the first place, two remedies are not required, and, in the second place, for an aboriginal, a remedy by suit is practically no remedy at all as it stands

The Hon'ble Babu Chaturbhooj Sahay said:—"I would, Sir, support this amendment."

The Hon'ble Rai Tarini Pershad, Bahadur, said:—"I would also support this amendment, because the next amendment which stands in my name is identical with this."

The Motion was then put and carried.

The Hon'ble Mr. Slacke also moved that the following be added to clause 20 of the Bill, namely:—

"After the words 'extortion of rent,' in the same clause, the words 'or interest thereon' shall be inserted."

He said:—"This, Sir, is a consequential amendment and should be accepted, since the amendment against Item No. 23 in the List of Business has been adopted."

The Motion was put and agreed to.

The Hon'ble Mr. Slacke also moved that the following be added to clause 20 of the Bill, namely:—

"After clause (*5*) of the same section, the following shall be inserted, namely:—

'(*5a*) all suits to eject a raiyat on account of the use of land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy.'"

He said:—"Clause 14 of the Bill provides for the insertion in the Act of a section which renders liable to ejectment a raiyat who uses the land of his holding in a manner which renders it unfit for the purposes of the tenancy. If the amendment I have just proposed be adopted, there will be no means [illegible] the landlord from [illegible] this penalty."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"I support this amendment with pleasure, because it will relieve me from the necessity of moving an amendment on precisely the same lines, which stands against my name."

The Motion was put and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That the following be added to clause 20 of the Bill, namely:—

'At the end of clause (5) of the same section the following shall be added, namely:—

"or on account of the use of the land by a raiyat in a manner which renders it unfit for the purposes of the tenancy.'"

New clause.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by leave of the Council, also withdrew the following motion, of which he had given notice, namely:—

"That the following be inserted in the Bill, namely:—

'20A. In section 38 of the said Act, after the word "suit" the words "or other proceeding" shall be inserted.'"

In doing so, he said:—"Having had the advantage of a consultation with the Hon'ble Member in charge of the Bill, I have come to the conclusion that I should withdraw this amendment."

Clause 22.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that sub-clause (*b*), in clause 22 of the Bill, be struck out. He said:—

"The proviso to section 44, as it stands, ru[illegible] as follows:—

'Provided that if the suit be for recover[illegible] of rent a[illegible]gher rate than was payable in the previous year, such [illegible]nt not having been [illegible] by [illegible]uty Commissioner under this Act, the suit shall be instituted within thre[illegible] end of the Bengali or *Sambat* year, or the month of Jeth of the Fas[illegible] his [illegible]ti year, on account of which such enhanced rent is claimed.'

"The application referred to here is an application un[illegible]ection 155 of the Bill, which gives the zamindar the right of realising re[illegible] under the certificate procedure. That right is an extraordinary right which is not given anywhere else, but is given here to landlords; but that right is to be exercised in cases where the rent is fixed, where the rent has been found by the Settlement Officer and recorded as rent for which there is no dispute. But here this section, if it is allowed to stand, would permit of a certificate procedure application being made for recovery of rent at a higher rate. I submit that it was never intended by the Legislature that the certificate procedure should be resorted to for realising at an enhanced rate, and therefore I trust this amendment will be accepted."

The Hon'ble MR. SLACKE said:—"I am unable, Sir, to accept the amendment. The retention of the words objected to is necessary in view of the procedure that has been devised in the Bill for the realisation of arrears of rent from the holders of Mundari khunt-kattidari tenures for which a survey and record-of-rights has been made and were for this purpose so inserted by the Select Committee."

The Hon'ble RAI TARINI [illegible] said:—"I beg to say, Sir, that the amendment moved by my hon'ble and learned friend is necessary, and I say so for the reasons put forward by him."

The Motion was then put and lost.

Clause 26.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, also moved that the following be added to clause 26 of the Bill, namely:—

"The words 'and satisfies the Deputy Commissioner that there has been a [illegible] in the same section, are repealed."

He said:—"On a reference to section 66 of the Act you find that this section provides that when a suit is decreed *ex-parte* the defendant may within 30 days apply for a rehearing of the appeal on the ground that summons was not served him, and if he can show sufficient cause for non-appearance, then the Court restores the case. But here a condition is attached, and that condition is, that he must show sufficient cause for his previous non-appearance and satisfy the Deputy Commissioner that there has been a failure of justice. That means that the applicant will have to go into the merits of the case and satisfy the Deputy Commissioner that there has been a failure of justice. The first thing that he has to do is to satisfy the Deputy Commissioner if there is sufficient reason for non-appearance, and he must go into the merits of the case to show that there has been a failure of justice. In no Civil Court is it necessary that the parties should go into the merits of the case. If he cannot give sufficient reasons his application is dismissed, and if he satisfies the Court, then a day is fixed and the parties are allowed to go on with the case. I submit that the words 'and satisfies the Deputy Commissioner that there has been a failure of justice' should be struck off."

The Hon'ble MR. SLACKE said:—"The words, Sir, which the learned and hon'ble Member would wish to strike out are part of the existing law and have been in force for 25 years. Nothing has been alleged to show that they in any way are objectionable in practice or have led to any hardship, and that being so, acting on the principle adopted by the Select Committee, I am averse to the acceptance of this amendment."

The Hon'ble BABU KALI PADA GHOSH said:—"I submit that there has not been much practical difficulty on this point, and I do not therefore consider it a question of great urgency. On that ground I do not support the amendment."

The Hon'ble M[illegible]edy at[illegible] it stand[illegible]LAM, KHAN BAHADUR, in reply, said:—"The reasons urged ag[illegible]nsfer amendment are not very forcible, namely, that the Hon'b[illegible] have found the[illegible] the Act for fifteen years and that no inconvenient[illegible] as resulted. These are not sufficient reasons for not striking these words out. My hon'ble friend on my right says there is no urgency, but if he agrees with me on principle that those words should not be there, I do not see what harm there would be in deleting these words. I submit that the want of urgency is no reason for allowing a provision to remain which is decidedly objectionable."

The Motion was then put and lost.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that the following be inserted in clause 26 of the Bill, namely:—

"For the first paragraph of section 66 of the said Act the following shall be substituted, namely:—

'No appeal shall lie from a judgment against a plaintiff by default for non-appearance; but an appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, if presented within thirty days from the date of the judgment.'

"In the second paragraph of the same section, for the words 'But in all such cases' the words 'In all cases referred to in the first paragraph of this section' shall be substituted."

He said:—"An appeal should be allowed against judgment passed *ex-parte*. The Bill does not allow it. The predecessors of the present Code of Civil Procedure did not allow such appeal, but the necessity for it was at last found and such appeal was allowed. This provision in the Civil Procedure Code works well. The remedy to people against whom judgments *ex-parte* are passed lies in an appeal a much simpler remedy than otherwise. This would show simple justification for the amendment I move."

The Hon'ble MR. SLACKE said:—"Nothing, Sir, has been shown by the learned and hon'ble Member of this amendment which can lead anyone to [illegible] that the change suggested is one urgently required, and on that [illegible] that this amendment may not be accepted."

The Hon'ble BABU KALI PADA GHOSH said:—"I sympathise wit object of this amendment, but the scope of this Bill is limited. I under that unless a matter is very urgent, it cannot be inserted in the present In this matter it cannot be said that there is any such practical difficulty therefore it would be better if it was allowed to stand over till some f time. I cannot support the amendment."

The Motion was then put and lost.

Clause 27.

The Hon'ble BABU KALI PADA GHOSH moved that after sub-clause in clause 27 of the Bill, the following be inserted, namely:—

'(2) In the same paragraph, after the words "is subordinate" the words "or by other person whom the Deputy Commissioner may deem fit" shall be inserted.

'(3) In the second paragraph of the same section, after the word "officer" the "or other person" shall be inserted.'

He said:—"This is only a simple change. Section 82 of the old provides for local inquiries and lays down that such local inquiries can onl made by the Deputy Commissioner himself or by any officer subordi to him or by any other officer of Government with the consent of the autho to whom such officer is subordinate. This causes great practical diffic because Government officers are not always available for such inquiries, it is highly necessary that persons other than Government officers should depu[illegible] such inquiries, and that the Deputy Commissioner should l powe[illegible] persons."

[illegible] to depute

The Hon'ble MR. [illegible] said:—[illegible] Sir, [illegible] this amendmen

The Motion was put and agreed to.

The Hon'ble RAI TARINI PERSHAD, [illegible] ADUR, by leav withdrew the following motion, of which [illegible] given notice, n[illegible]y:—

"That after sub-clause (1) in clause 27 of [illegible] Bill the following be inserted, namely

'(2) In the same paragra[illegible] the words "is subordinate" the words "or by competent person other than an [illegible]er of Government" shall be inserted.'"

In doing so, he said:—"The amendment just carried is identical with t one I was to have moved, so I beg leave to withdraw it."

Clause 29.

The Hon'ble MR. SLACKE moved that the words "to be recorded i writing" be inserted after the words "for special reasons" in clause 29 (4) o the Bill." He said:—

"As the clause now stands, the Court may for special reasons extend th period of 30 days mentioned in this section. It can be easily imagined tha some Courts may not put their reasons down on paper, and since it is obviously necessary that this should be done for the purpose of removing any doubt on the subject, I propose that these words 'to be recorded in writing' be inserted after the words 'for special reasons.'"

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"I support this amend ment."

The Motion [illegible] and agreed to.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that after clause 29 the Bill the following be inserted, namely:—

'29A. After section 94 of the said Act the following shall be inserted, namely:—

"94A. The following rules shall apply in the case of every raiyat ejected from a holding, namely:—

Rights of raiyat when ejected from holding.

(a) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops, as estimated by the Court executing the decree for ejectment;

(b) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(c) a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;

(d) if the landlord elects under this section to allow the raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable."'

He said:—"In moving this amendment I observed that in all the Bengal of new legislation *necessity is the touchstone.* Act X of 1859 and Act VIII of 1869 had no provision like the one in section 156 ending some Tenancy Act, owing to which, after delivery of possession to difficulties, the holdings of raiyats aft[illegible] formidiously litigation of the Bengal Tenancy times in breaches of [illegible] should be made in the Bill under consideration." provisions I am [illegible]

The Hon'ble MR. SLACKE said:—"For two reasons this amendment is not one that I can support. In the first place, there is nothing to show that it deals with a matter that requires an immediate remedy and, secondly, the proposal is not one that should be provided for by substantive law, but by rules having the force of law. When the necessity arises for the need of any such rules, the Government already possesses the power to make them."

The Hon'ble BABU KALI PADA GHOSH said:—"This amendment is based upon the interlinked section of the Bengal Tenancy Act, and I should say that no one would be more glad than myself to have this section of the Bengal Tenancy Act, but I was told that we must wait for it till the consolidating Bill is before the Council, and that in the present Bill we can only have such amendments as are urgently necessary. Although I agree with the principle of the amendment, I cannot see the urgency of it. I cannot, therefore, support the amendment."

The Motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That after clause 29 of the Bill the following be inserted, namely:—

'29A. In section 98 of the said Act, after the word "Act" the words "and to all applications under section 155" shall be inserted."

In doing so, he said:—"I have been assured by my hon'ble friend to my that if this amendment is accepted it will cause great hardship to raiyats, therefore, I do not think I should be justified in pressing it."

The Hon'ble BABU KALI PADA GHOSH moved that after clause 29 of the Bill the following be inserted, namely :—

"29A. For section 105 of the said Act the following shall be substituted, namely :—

"105. No process of execution of any description whatsoever shall be issued on a decree or order passed under this Act unless an application be made within three years from—

Application for execution to be made within three years.

(a) the date of the decree or order, or

(b) where there has been an appeal, the date of the final decree or order of Appellate Court, or

(c) where there has been a review of judgment, the date of the decision passed on review."'

He said :—"My amendment is connected with section 105 of the A which lays down the period of limitation with regard to execution matte I submit, Your Honour, that this section is not happily worded. It says: ' process of execution of any description whatsoever shall be issued on judgment under this Act unless an application be made within three ye from the date of such judgment.' I am not aware of any law, in this or a other country, under which an 'execution on judgment' is taken out. T usual expression is 'execution of decree': this is the expression which occurs the Civil Procedure Code, the Bengal Tenancy Act, and in all other Acts. bring this section in conformity with the law in other parts of the country submit that the word 'judgment' be struck out and the words 'decree or orde be substituted. Practically we do little more than to make the section confo with the Bengal Tenancy Act on the subject. By this Bill we have given higher right of appeal. Previously there was no right of appeal after executi proceedi[illegible]ble BAB[illegible] this Bill provides for that, and it is very desirable that t section out. It [illegible] made to conform with this. Even where appeal is allowe exec[illegible]ngs. [illegible] be taken out within three years of the final decree."

[illegible] should be [illegible] said :— [illegible] would, Sir, ask that this amendme m[illegible]tion should [illegible] [illegible] ake it

[illegible] (4a) and (4b).

The Hon'ble [illegible] R. S[illegible] [illegible] port the amen [illegible] ay be accepted."

[illegible] Hon'ble DR. ASU[illegible] MUKHOPA[illegible] This being so, subsu[illegible] (4) and ment, but I have to point [illegible] although [illegible] this amendment, it will not affect section 10[illegible] transfer under section [illegible] which, I believe, the same expressions are to be foun[illegible] concern[illegible]

The Hon'ble RAI TAR[illegible] [illegible]SHAD, BAHA[illegible] said :—"I agree to [illegible] amendment, subject to the rest[illegible] proposed."

The Hon'ble the PRESIDENT said :—"I think we may take it as a part of [illegible] substantive motion that wherever [illegible] word 'judgment' occurs in this connection, the words 'decree or order' sho[illegible] substituted, that is to say, if the amendment is carried."

The Hon'ble BABU KALI PADA GHOSH said :—"Yes, Your Honour."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA then, by leave of the Council, moved that, in sections 103 and 104 of Bengal Act I of 1879, where process [illegible]ecution is mentioned as being issued upon a "judgment," the wo[illegible] "decree or order" should be substituted for the word "judgment."

Both Motions were put and carried.

Clause 34.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, moved that sub-sec[illegible] [illegible]ction 130A, in clause 34 of the Bill, be altered as follows, namely [illegible]red after [illegible]

'130A. (1) When a tenure or holding has been sold for an arrear of [illegible] or when any other immoveable property ha[illegible] section 129, any person who owns the ten[illegible] the said immoveable property, or who has [illegible]ved that a[illegible] [illegible]der a title lawfully acquired before the sale, may, at any time within [illegible] [illegible]ys from the date of the sale, apply to have the sale set aside on his dep[illegible]

Application to set aside sale of tenure, holding or other immoveable property.

(i) for payment to the purchaser, a sum equal to five *per centum* [illegible] money, and [illegible]

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder.'

He said:—"The provisions made in section 130A, sub-section (1), ought to include a remedy to the judgment-debtors whose other immoveable property under section 129 have been sold. There is no reason why they should be left without remedy."

The Hon'ble MR. SLACKE said:—"This amendment, Sir, might be accepted."

The Motion was put and agreed to.

Clause 37.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, also moved that in clause 37 (1) of the Bill, the words "section 119, section 120 or section 130" be substituted for the words "section 119 or section 120." He said:—

"The principle underlying orders under section 119 and section 120 stand on all-fours with the principle on which an order under section 130 is based. The inquiry under all these sections is of a similar character. Therefore an order under section 130 should not be made appealable to the Commissioner."

The Hon'ble MR. SLACKE said:—"I have nothing to say against this amendment."

The Hon'ble BABU KALI PADA GHOSH said:—"I have great pleasure in supporting this amendment."

The Motion was then put and carried.

The Hon'ble [illegible] KHAN BAHADUR, moved that after [illegible] inserted, namely:—

'38A. [illegible] question of [illegible] rent annually [illegible] the rent of a tenant or a question of the amount of [illegible] be inserted.'

He said:—"This is a very important amendment if I might say so, because if the object of the Legislature is to give a right of appeal, then unless his condition is improved, there will be no appeal. These words are taken from section 153 of the Bengal Tenancy Act. I may appeal to my hon'ble friends here that the only sort of case that comes up for appeal is when there is a dispute about the enhancement or varying of rent. There are few cases where there are questions of [illegible] between the conflicting parties. If these words are not added, there will practically be no appeal. Therefore, I submit, these words which are to be [illegible] section 153 of the Bengal Tenancy Act should be added."

The Hon'ble MR. SLACKE said:—"I am averse to this amendment, Sir, on the ground that to accept it will be contrary to the principle which guided the Committee, inasmuch as there is nothing to show that the proposal [illegible] existing urgent need."

The Hon'ble MR. PUGH said:—"I should support this amendment supposing [illegible] reference to a province like Bengal, but what we have to consider [illegible] Chota Nagpur is not suited for this kind of legislation, and I think it [illegible] for the circumstances of Chota Nagpur if these questions [illegible] landlord and tenant were not subject to appeal. That was the [illegible] arrived at in Select Committee, and that I think is the right [illegible] regard to the circumstances of Chota Nagpur."

[illegible] then put and lost.

Clause 16.

The Hon'ble the PRESIDENT said:—"The Council will remember that Item No. [illegible] on the List of Business was postponed for further consideration till the end of the day, when the Hon'ble Dr. Asutosh Mukhopadhyaya suggested an amendment which would have the effect of obviating the necessity of the amendment of the Hon'ble Member in charge of the Bill. The Hon'ble Member in charge of the Bill and the Hon'ble the Advocate-General have considered the wording of the suggested amendment, and I understand that the Hon'ble Mr. Slacke is now prepared to bring forward an amendment to the following effect:—

'(4) Every application for the registration of a transfer under sub-section (1) must be made, in the case of a transfer which occurred before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, within one year from such commencement, and, in the case of a transfer occurring after such commencement, within one year from the date of the transfer.

'(4a) If application for the registration of any transfer of a tenure or portion thereof is not made, and the registration fee paid or tendered, as hereinbefore prescribed, the transferee or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to him as the holder of the tenure or portion which may have accrued due between the date of the transfer and the date of the application for registration.' "

The Hon'ble MR. SLACKE said:—"I am willing, Sir, to accept the amendment as now altered by the Hon'ble Dr. Asutosh Mukhopadhyaya. It will take the place of the existing sub-clause (4) in the section."

The Hon'ble BABU KALI PADA GHOSH said:—"I understand that sub-clause (4) will go out. It is understood that this will be substituted for the entire [illegible] in the name of the Hon'ble Mr. Slacke."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I take it that it will [illegible] amendment which is down in my name, namely, (4a) and (4b)."

The Hon'ble Dr. A[illegible] take the place of sub-clause (4).

The Hon'ble the PRESIDENT said:—"This being so, [illegible] (4) and (4a) will now stand as follows:—

'(4) Every application for the registration of a transfer under sub-section [illegible] must be made, in the case of a transfer which occurred before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, within one year from such commencement, and, in the case of a transfer occurring after such commencement, within one year from the date of the transfer.

'(4a) If application for the registration of any transfer of a tenure or portion thereof is not made, and the registration-fee paid or tendered, as hereinbefore prescribed, the transferee or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to the holder of the tenure or portion which may have accrued due between the date of the [illegible] and the date of the application for registration.'

"These sub-clauses will take the place of sub-clauses (4), (4a) and (4b) of the Hon'ble Mr. Slacke's amendment."

The Motion was put and agreed to.

New clauses.

The Hon'ble BABU KALI PADA GHOSH moved that after clause 38 of the Bill the following be inserted, namely:—

'38A. Section 138 of the said Act is repealed.'

He said:—"I think it would be better if this item was considered after Item 60, which stands in my name, is disposed of."

The Motion was allowed to stand over as requested.

The Hon'ble MAULVI SIRAJ-UL-ISLAM, KHAN BAHADUR, moved that after clause 38 of the Bill the following be inserted, namely:—

'38B. At the end of section 138 of the said Act the words "or upon any [illegible] shall be [illegible]

He said:—"This amendment will simply give the Deputy Commissioner wide discretionary powers for granting a review. Here the grounds upon which a review may be admitted are limited: they are limited only to the ground of the discovery of some new evidence or matter. What I propose is to give wider discretionary power to the Deputy Commissioner to re-hear cases where injustice has been done, or for other reason. These words are also to be found in section 623 of the Civil Procedure Code. I submit it will be for the ends of justice if the amendment is accepted."

The Hon'ble MR. SLACKE said:—"I would suggest, Sir, subject to the consent of the hon'ble mover, that this amendment may be considered after Item No. 57 in the List of Business has been disposed of, because, if that amendment be accepted, this one must necessarily be abandoned."

The Motion was allowed to stand over as requested.

Clause 39.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That in clause 39 of the Bill after the word 'decree' the words 'or order' be inserted."

New clauses.

The Hon'ble BABU KALI PADA GHOSH moved that after clause 40 of the Bill the following be inserted, namely:—

'40A. After section 145 of the said Act the following shall be inserted, namely:—

"(1) The provisions [illegible] Code of Civil Procedure [illegible] so far as applicable, apply to all a[illegible] this Act.

Application of certain provisions of the Code of Civil Procedure.

"(2) The provis[illegible] of [illegible] peace. [illegible] Civil Procedure re[illegible] to the amendment of plaints, the amendment of d[illegible] parties, [illegible] review of judgment shall, so far as they are not [illegible] decrees, the su[illegible] made [illegible] inserted, [illegible] inconsistent with this [illegible] pply to all suits and proceedings under this Act."'

He said:—"The object of the amendment is to introduce some of the provisions of the Civil Procedure Code. In moving this amendment, I do not lose sight of the fact that the present Bill is limited to very urgent matters. The procedure of the Chota Nagpur Rent Act is very defective. Great practical difficulty is experienced in working out the procedure law, and in this connection I would simply read a passage from the report of the Deputy Commissioner of Hazaribagh. He reports in connection with the Bill:—

'I may mention that I have had it argued before me that a Court cannot review its own judgment or order, and in a case when I appointed a Receiver, the legality of my action was called in question.'

"I am aware that several suits in the Ranchi Courts have been dismissed on the ground that there is no provision in the law for the substitution of parties after death. This will surprise men who are accustomed to law in other parts of the country. I have, therefore, confined my amendment to this very urgent matter. By the present Bill a second appeal to the High Court is allowed in certain cases, but our Act does not provide for what we call technically 'cross appeals:' that is, when an appeal is filed by one of the parties, the respondent has also a right to appeal on certain portions of the lower Court's judgment. Section 561 provides for this, but great difficulty is experienced, as some of the Judicial Commissioners have held that under the existing law there is no right of cross-appeal. Then there are some other things which I pray for, namely, that the provisions of the Civil Procedure Code relating to the amendment of plaints, the amendment of decrees, the substitution of parties and review of judgment, so far as they are not inconsistent with this Act. These are very necessary matters. There is at present no provision in the Act, and the Courts have refused to correct the patent errors. We shall have great practical difficulty unless this remedy is given. Therefore I submit that the Council should consent to this

The Hon'ble Mr. Slacke said:—"I am, Sir, wholly in favour of this amendment, which will remedy existing grievances and get rid of certain hardships."

The Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, said:—"I have much pleasure in supporting this amendment. I have only to point out that it might be as well to add the word 'appeals' after the word 'suits' in the above section 145A (2)."

The Hon'ble Babu Kali Pada Ghosh said:—"I accept the suggestion."

The Hon'ble Dr. Asutosh Mukhopadhyaya said:—"I have much pleasure in supporting this amendment, as it covers to some extent the same ground as an amendment which stands in my name. I would suggest that not only the word 'appeals' but also the words 'and addition' be inserted after the word 'substitution' in the said section."

The Hon'ble Babu Kali Pada Ghosh said:—"I accept the addition."

The Motion was then put in its amended form and carried.

The Hon'ble Babu Kali Pada Ghosh moved that after clause 38 of the Bill the following be inserted, namely:—

'38A. Section 138 of the said Act is repealed.'

He said:—"There can be no objection to this being carried, because it follows as a sequence. Section 138 provides for review in one case only; and [illegible] general section for review, there is no necessity for this section [illegible] a part."

The Hon'ble Mr. Slacke said:—"I agree [illegible] of the hon'ble mover of the amendment [illegible], it is no longer necessary to retain this section. Item No. 60 has [illegible]."

The motion was put and agreed [illegible].

The Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That after clause 38 of the Bill the following be inserted, namely:—

'38B. At the end of section 138 of the said Act the words "or upon any other sufficient ground" shall be added.'"

In doing so, he said:—"The last two amendments being carried, it is not necessary for my amendment to be put. This is covered by item No. 60."

The Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That after clause 40 of the Bill the following be inserted, namely:—

'40A. After section 145 of the said Act, the following shall be inserted, namely:—

'145A. The provisions of sections 206, 373, 374, 375 and 561, and Chapter XLVII of the Code of Civil Procedure shall apply to suits and appeals under this Act.'"

Clause 41 (section 151).

The Hon'ble Mr. Slacke moved that the words "such persons" be substituted for the words "such kattidars" in section 151, in clause 41 of the Bill. He said:—

"My reason for this is that the word 'kattidars' is meaningless. Kattidars would have been the appropriate word, but to prevent repetition the word 'persons' will be sufficient here."

The Motion was put and agreed to.

[Maulvi Hoq-ul-Islam, Khan Bahadur, Mr. [illegible]
Bahadur; Babu Kali Pada Ghosh.]

He said:—"This amendment will simply give the Deputy Commissioner wide discretionary powers for granting a review. Here the grounds upon which a review may be admitted are limited: they are limited only to the ground of the discovery of some new evidence or matter. What I propose is to give wider discretionary power to the Deputy Commissioner to re-hear cases where injustice has been done, or for other reason. These words are also to be found in section 623 of the Civil Procedure Code. I submit it will be for the ends of justice if the amendment is accepted."

The Hon'ble MR. SLACKS said:—"I would suggest, Sir, subject to the consent of the hon'ble mover, that this amendment may be considered after Item No. 57 in the List of Business has been disposed of, because, if that amendment be accepted, this one must necessarily be abandoned."

The Motion was allowed to stand over as requested.

Clause 39.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, by leave of the Council, withdrew the following motion, of which he had given notice, namely:—

"That in clause 39 of the Bill after the word 'decree' the words 'or order' be inserted."

New clauses.

The Hon'ble BABU KALI PADA GHOSH moved that after clause 40 of the Bill the following be inserted, namely:—

'40A. After section 145 of the said Act the following shall be in[illegible]ted, namel[illegible]

"145A. (*1*) The provisions of section 561 of the Code [illegible] Civil Procedure s[illegible] as applicable, apply to all a[illegible]s under this Act.

Application of certain provisions of the Code of Civil Procedure to [illegible] relating to appeal.

"(*2*) The provisi[illegible] Civil Procedure re[illegible] the amendment of d[illegible] of [illegible] parties, a[illegible] BAR to the amendment of plaints, [illegible]ey are not, [illegible] decrees, the su[illegible] n of [illegible]lew of judgment shall, so far as [illegible] inconsistent with this [illegible] made [illegible]pply to all suits and proceedings under this Act."'

He said:—"The object of the amendment is to introduce some of the provisions of the Civil Procedure Code. In moving this amendment, I do not lose sight of the fact that the present Bill is limited to very urgent matters. The procedure of the Chota Nagpur Rent Act is very defective. Great practical difficulty is experienced in working out the procedure law, and in this connection I would simply read a passage from the report of the Deputy Commissioner of Hazaribagh. He reports in connection with the Bill:—

'I may mention that I have had it argued before me that a Court cannot review its own judgment or order, and in a case when I appointed a Receiver, the legality of my action was called in question.'

"I am aware that several suits in the Ranchi Courts have been dismissed on the ground that there is no provision in the law for the substitution of parties after death. This will surprise men who are accustomed to law in other parts of the country. I have, therefore, confined my amendment to this very urgent matter. By the present Bill a second appeal to the High Court is allowed in certain cases, but our Act does not provide for what we call technically 'cross appeals:' that is, when an appeal is filed by one of the parties, the respondent has also a right to appeal on certain portions of the lower Court's judgment. Section 561 provides for this, but great difficulty is experienced, as some of the Judicial Commissioners have held that under the existing law there is no right of cross-appeal. Then there are some other things which I pray for, namely, that the provisions of the Civil Procedure Code relating to the amendment of plaints, the amendment of decrees, the substitution of parties and review of judgment, so far as they are not inconsistent with this Act. These are very necessary matters. There is at present no provision in the Act, and the Courts have refused to correct the patent errors. We shall have great practical difficulty unless this remedy is given. Therefore I submit that the Council should consent to this amend[illegible]

The Hon'ble Mr. Slacke said:—"I am, Sir, wholly in favour of this amendment, which will remedy existing grievances and get rid of certain hardships."

The Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, said:—"I have much pleasure in supporting this amendment. I have only to point out that it might be as well to add the word 'appeals' after the word 'suits' in the above section 145A (2)."

The Hon'ble Babu Kali Pada Ghosh said:—"I accept the suggestion."

The Hon'ble Dr. Asutosh Mukhopadhyaya said:—"I have much pleasure in supporting this amendment, as it covers to some extent the same ground as an amendment which stands in my name. I would suggest that not only the word 'appeals' but also the words 'and addition' be inserted after the word 'substitution' in the said section."

The Hon'ble Babu Kali Pada Ghosh said:—"I accept the addition."

The Motion was then put in its amended form and carried.

The Hon'ble Babu Kali Pada Ghosh moved that after clause 38 of the Bill the following be inserted, namely:—

'38A. Section 138 of the said Act is repealed.'

He said:—"There can be no objection to this being carried, because it [illegible]ws as a sequence. Section 138 provides for review in one case only; and [illegible] have not [illegible] general section for review, there is no necessity for this [illegible]rovisions of [illegible] the [illegible]n part." section. The whole cove[illegible]

The Hon'ble Mr. S[illegible] said:—"I a[illegible] the [illegible]obl of the hon'ble [illegible]m No. 60 ha[illegible] Mu[illegible] apply [illegible]nt, it is no longer mover of the amendment." [illegible]vi[illegible] necessary to retain this sec[illegible]n.

The Motion was put and agreed to. [illegible]is am[illegible]

The Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, by leave of t[illegible] Council, withdrew the following motion, of which he had given noti[illegible] namely:—

"That after clause 38 of t[illegible] the following be inserted' namely:—

'38B. At the end of sec[illegible]38 of the said Act the words "or upon any other sufficie[illegible] ground"' shall be added.'"

In doing so, he sai[illegible] "The last two amendments being carried, it is n[illegible] necessary for my ame[illegible]ment to be put. This is covered by item No. 60"

The Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Counci[illegible] withdrew the following motion, of which he had given notice, namely:—

"That after clause 40 of the Bill the following be inserted, namely:—

'40A. After section 145 of the said Act, the following shall be inserted, namely:—

'145A. The provisions of sections 206, 373, 374, 375 and 561, and Chapter XLVII o[illegible] he Code of Civil Procedure shall apply to suits and appeals under this Act.'"

Clause 41 (section 151).

The Hon'ble Mr. Slacke moved that the words "such persons" be substituted for the words "such kattidars" in section 151, in clause 41 of the Bill. He said:—

"My reason for this is that the word 'kattidars' is meaningless. K[illegible]ttidars would have been the appropriate word, but to prevent repe[illegible] the word 'persons' will be sufficient here."

The Motion was put and agreed to.

Clause 41 (section 152).

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that the word "when granted in respect of land of a village or tola of a village owned by group of joint Mundari khunt-kattidars," in sub-section (4) of section 152, i clause 41 of the Bill, be struck out. He said:—

"Section 152, clause (4), reads in this way:—

'No lease of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid except a lease of one or other of the following kinds, when granted in respect of land of a village or tola of a village owned by a group of joint Mundari khunt-kattidars, namely:—

"(a) mukarrari leases of uncultivated land when granted to a Mundari or a group of Mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;

"(b) leases of uncultivated land when granted to a Mundari cultivator to enable him to cultivate the land as a raiyat.'"

"Two kinds of leases are here described; the words which I have mentioned, if left in, will lead to the inference that if there is a village not owned by a group of Mundari khunt-kattidars, no lease whatever in such a village can be valid; but as that could never have been intended, I propose that these words be left out."

The Hon'ble MR. SLACKE said:—"I would, Sir, accept this amendment."

The Hon'ble BABU KALI PADA GHOSH said:—"I beg to support the amendment. Unless these words are struck out, very great difficulty will ar[illegible] because the section, as it stands, does not provide for power to lease in case[illegible] far what we call the individual khunt-kattidars. It is [illegible] should be deprived of the right of giving leases."

The Motion [illegible] ion, of wh[illegible] rried. [illegible] of the Council, withdrew [illegible] ce, namely:—

The Hon'[illegible] words 'when granted in re[illegible]SH, by [illegible] of a village or tola of a village owned [illegible] group of joint Mundari khunt kattidars,' in sub-section (4) of section 152, in clause 41 of the Bill, be struck out."

In doing so, he said:—"This item is identical with the one that has just been carried."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to sub-section (4) of section 152, in clause 41 of the Bill, the following be added, namely:—

'(c) raiyati leases of cultivated land which is part of a village or tola of a village not owned by a group of joint Mundari khunt-kattidars;

'(d) raiyati leases of cultivated land in a village owned by a group of joint Mundari khunt-kattidars, when such land is not in the occupation of the group or any member thereof and the lease is granted to a Mundari or a group of Mundari raiyats.'

He said:—"I believe the Hon'ble Member in charge of the Bill is quite in agreement with the principle which underlies the Bill, but he seems to think that the addition is not necessary. I shall therefore explain to the Council the grounds upon which I venture to think that the additional clauses are necessary. Clause (4) of section 152 deals with the validity of leases of khunt-kattidari tenures. Clauses (a) and (b) both deal with the case of leases of uncultivated lands. Clause (a) speaks of the *mukarrari* lease of uncultivated land when granted to a Mundari or group of Mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation. Clause (b) deals with the case of leases of uncultivated lands when granted to a Mundari cultivator to enable him to cultivate the land as a raiyat. No provision therefore is apparently made for leases of cultivated lands. By cultivated lands I mean lands which have been brought under cultivation, but which are not in actual occupation of tenants

[illegible] take the case [illegible] in which a tenant has brought [illegible] and then subsequently abandons it. That will not be [illegible] covered by clauses (a) and (b). My hon'ble friend, the Member in [illegible] the Bill [illegible] that that land may properly be described as uncultivated [illegible] is not for the time being cultivated by any body. I submit [illegible] uncultivated land properly means land that has never been cultivated; if a [illegible] has once been brought under cultivation, and the tenant has simply vacated [illegible] holding, it cannot be said that it is uncultivated land. At least that is the [illegible] people understand it."

The Hon'ble MR. SLACKE said:—"The Hon'ble Dr. Asutosh Mukhopadhyaya has given fully the reason which has led me to refuse my support to this amendment, because I hold that the clause, as it stands, provides for this case. You have only three classes of land—cultivated land, uncultivated land and unculturable land. There can be no other kind of land. If a holding is cultivated, it is cultivated land; if it is not under cultivation, it is uncultivated land. Therefore this meets the whole case. If the Council are not of my opinion, then I think that clause (c) of the amendment will require a little alteration so as to make it quite clear that this class of leases cannot be granted to anybody but a Mundari. Otherwise you will let in the *Mahajans*, and thereby work a great deal of evil to Mundari khunt-kattidars. I would suggest that the amendment should not be accepted, because the clause, as it stands, amply meets all classes of holdings."

The Hon'ble MR. GUPTA said:—"I do not know whether it would meet the [illegible] of my learned friend, Dr. Asutosh Mukhopadhyaya, if [illegible] the word 'uncultivated' is taken out and the clause [illegible] section. The whole cove[illegible] of land, when granted [illegible] Mundari cultivator to [illegible] and as a raiya[illegible]

The Hon'ble MR. SL[illegible] Mu[illegible] it the word [illegible] mover of the amendmen[illegible]

The Hon'ble DR. ASUTOS[illegible] KH[illegible] said:—"On[illegible] 'uncultivated' in both clauses (a) and (b)." [illegible]

The Hon'ble Mr. SLACKE said:—"I [illegible] not omit it, because it would give facilities to some members of the brotherhood to damage the interests of their weaker brethren. Uncultivated lands are lands in nobody's possession."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The whole difficulty may be avoided if we adopt the words 'land which has been brought under cultivation but which is not at the time cultivated.'"

The Hon'ble MR. SLACKE said:—"I am perfectly willing to adopt that."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"If you adopt that, I am quite willing to withdraw my amendment."

The Hon'ble the PRESIDENT said:—"The Hon'ble Member desires to withdraw his amendment as it stands at present and substitute the following, namely:—

'That the following be inserted after sub-section (4) of section 152, in clause 41 of the Bill, namely:—

Explanation.—The expression 'uncultivated land,' as used in this sub-section, includes land which, though formerly cultivated, is not at the time the lease is granted either under cultivation or in the occupation of the lessee for purposes of cultivation.'"

The Motion was then put and carried.

The Hon'ble BABU KALI PADA GHOSH moved that to sub-section [illegible] on 152, in clause 41 of the Bill, the following be added, namely:—

"[illegible] lease of cultivated land [illegible]

He said:—"It strikes me that there may be cases which might make it necessary to add this clause to section 152 (4). What I mean is that clause (4) of section 152 which has been amended will certainly cover the cases of joint Mundari khunt-kattidari tenancies, but there will be what we call Mundari khunt-kattidari tenancies which may be held by one individual Mundari, such as the ordinary *jaigirdar* of Chota Nagpur. In these cases the raiyats who cultivate the villages are not all Mundari raiyats; they are people such as Swasis, and many other castes. I think we ought to have the power the amendment gives. Section 152, as it stands, says: 'No lease of a Mundari khunt-kattidari tenancy or any portion shall be valid' The whole village is Mundari khunt-kattidari tenancy, but no portion of land from there may come under this sub-clause (4), even if that land is in the possession of a non-Mundari raiyat. So I do not think clause (4) of section 152 will cover such a case, but I say so subject to correction by the Hon'ble Member in charge of the Bill. If section 152 covers such cases, I will withdraw my amendment, but if it does not, I hope the matter will be carefully considered, because there are many villages in Chota Nagpur in which there are a very large portion of non-Mundari raiyats. I submit that the clause proposed by me should be inserted in the Bill, because, unless the meaning is very, very clear, much practical difficulty will be experienced."

The Hon'ble MR. SLACKE said:—"I am unable to accept the amendment. Everything that has come to our notice shews that there is great danger in a non-Mundari having anything to do permanently with land in a Mundari khunt-kattidari tenancy. I submit that there is no hardship or difficulty at present but if in the future anything should transpire to shew that there is hardship, it can be remedied when we again deal with this matter in the Council."

The Hon'ble BABU KALI PADA GHOSH, in reply, [illegible] the Hon'ble Member [illegible] the Bill has st[illegible]—"[illegible] what this amendment." [illegible] I desire [illegible] withdraw

The Motion [illegible] BABU KALI PADA GHOSH [illegible] the Council [illegible] of which [illegible] of the Council, [illegible] withdrawn.

"The [illegible]ion was then, [illegible] granted in [illegible]

The Hon'ble MR. SLACKE [illegible] that at the end of section 152, in clause 41 of the Bill, the following be [illegible]ed, namely:—

'(7) Nothing in the foregoing sub-sections shall affect any sale, or, except as declared in the proviso to sub-section (1), any mortgage, or any lease, made before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903.'

He said:—"This is merely a protective amendment designed to protect rights that have already accrued, and therefore will, I trust, be approved by the Council."

The Hon'ble BABU KALI PADA GHOSH said:—"I have pleasure in supporting this amendment. In sections 10A and 10B some such provision has been made, and it is therefore necessary that this amendment should be put in under section 152. This provision regarding Mundari khunt-kattidari being a new insertion in the Bill, it might cause some misapprehension in the minds of people, and it is therefore very desirable that the matter should be as clear as possible."

The Hon'ble BABU CHATURBHOOJ SAHAY said:—"I support this amendment because it is in keeping with the transfer of occupancy holdings and other transfers. So the principle which underlies this amendment has already been recognised by us in the foregoing part of the Bill."

The Motion was then put and carried.

Clause 41 (section 153).

The Hon'ble BABU KALI PADA GHOSH moved that in section 153, in clause [illegible] the Bill, before the words "no suit" the words "if the tenancy was, before [illegible] was obtained, entered as a Mundari khunt-kattidari tenancy in [illegible]

[illegible] finally published under section 103A, sub-section (2), of the Bengal Tenancy Act, 1885," be inserted. He said:—

"I submit that this insertion is absolutely necessary, and for these reasons: section 153 provides that:—

'If any person, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, obtains possession of a Mundari khunt-kattidari tenancy, or any portion thereof, in contravention of the provisions of section 152, the Deputy Commissioner may eject him therefrom; and no suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie to the Commissioner, if presented within three months from the date of the ejectment, and his decision shall be final.'

"This ejectment will certainly be in a summary procedure. What I submit is that before the publication of the record-of-rights there will be nothing to show what tenancy is a Mundari khunt-kattidari tenancy, and a man might not know that he was dealing with a Mundari khunt-kattidari tenancy, and he might purchase such a tenancy, and then if he is summarily ejected by the Deputy Commissioner, and if no right by a civil suit is given, it will be a very great hardship. After the preparation and publication of the record-of-rights there will be a safe guide for people to know what is a Mundari khunt-kattidari tenancy, and that one should not therefore deal with it, and that if he does so it will be at his own risk. I submit that before the preparation and publication of the record-of-rights there should certainly be the power to contest the summary order for ejectment by a civil suit, and that in this particular case it is absolutely necessary, otherwise this section will lead to great hardship."

The Hon'ble Mr. [illegible]tion in[illegible] said:—"I am, Sir, in favour of this amendment. [illegible] the provisions of [illegible] had been [illegible] not so curtailed, a Deputy Commissioner [illegible] certainly be made that [illegible] doubtf[illegible] with regard to a tenancy for which no [illegible] and this should not be decl[illegible]." In [illegible]ch a case, the objection would [illegible] Mu[illegible] khunt-kattidari one,

The Hon'ble Dr. Asu[illegible] [illegible] Secretary [illegible] "I appr[illegible] ment, as it is identical with m[illegible] "This amend[illegible] the List of Business."

The Motion was then put and carried.

The Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Council withdrew the following motion, of which he had given notice, namely:—

"That in section 153, in clause 41 of the Bill, before the words 'no suit' the words 'if the tenancy is recorded as a Mundari khunt kattidari tenancy in a record-of-rights finally published under section 103A, sub-section (2), of the Bengal Tenancy Act, 1885,' be inserted."

Clause 41 (section 154).

The Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Council, also withdrew the following motions, of which he had given notice, namely:—

"That to section 154, in clause 41 of the Bill, the following be added, namely:—

'(4) The provisions of sections 27 and 28 relating to the abatement of rent shall be applicable to Mundari khunt-kattidari tenancies.'"

"That in the marginal note to section 154, in clause 41 of the Bill, after the word 'enhancement' the words 'or abatement' be inserted."

"That to section 154, in clause 41 of the Bill, the following be added, namely:—

'(5) When the rent of a Mundari khunt-kattidari tenancy is entered in a record-of-rights finally published under section 103A, sub-section (2) [illegible] the Bengal Tenancy Act, 1885, [illegible] anything contained in the foregoing sub-sections, [illegible] shall not [illegible] except on the ground of a landlord's improvement or of a subsequent [illegible] of the tenancy, be enhanced for five years, [illegible] shall be reduced within the period [illegible] the tenancy [illegible]

without the fault of the Mundari khunt-kattidar, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual.

'(6) The said period of five years shall be counted from the date of the final publication of the said record-of-rights.'"

Clause 41 (section 155).

The Hon'ble MR. SLACKE moved that after the words "*per annum*" in section 155 (*1*), in clause 41 of the Bill, the following be inserted, namely:—

'or, in the case of money recoverable under the Cess Act, 1880, with simple interest at twelve and-a-half *per centum per annum*.'

He said:—"The object of this amendment is to prevent anomaly, for unless it is accepted, the landlord would be unable to obtain the amount of interest which, under the Cess Act, he would be entitled to, and which, but for the present Bill as it stands, he would obtain."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I have much pleasure in supporting this amendment."

The Motion was put and agreed to.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, moved that afte the figures "33" in sub-section permanently wit clause 41 of the Bil the following be j. I submit that there is no hardship [illegible] future anything should transpire to shew tha [illegible] can be remedied when we again deal with this matter [illegible]

The Hon'ble BABU KALI PADA GHOSH, in reply, [illegible] standing crops [illegible] section 21 of the [illegible] inserted, namely:— [illegible] (4) of section 155, in [illegible] the money within thirty [illegible] aside. That [illegible] when any standing crops are sold in execution of a certificate made under [illegible] section, the provisions of section 21 of the said Public Demands Recovery Act, 1895, [illegible] [illegible] great hardship [illegible] also be applicable as if such crops were immoveable property.' [illegible] ould be

He said:—"I may remind the [illegible] present Act [illegible] immoveable [illegible] Demands Recovery [illegible] days to have [illegible] right is [illegible]

The Hon'ble MR. SLACKE said:—"I am given to understand th[illegible] crops when attached are not sold until after they have been converted into moveable property, that is to say after being cut. They are reaped and threshed, and then they are sold. That is what I have been given to understand is the practice in Chota Nagpur; therefore, there is no object in adopting this amendment. I have, however, nothing to urge against the amendment, save that as there is no practical difficulty felt in Chota Nagpur, I do not see any necessity for it."

The Hon'ble BABU KALI PADA GHOSH said:—"They are not sold when they are standing in the field, but after they are cut. I submit that there is hardly any necessity for this provision. Even supposing they are sold when they are standing in the field, it may not be practicable to apply the provision to set aside the sale, because by the time the attachment is set aside the crops may be destroyed or damaged. I do not really see how this amendment will have any beneficial effect. I see no reason for the acceptance of this amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am unable to support this amendment. I cannot believe that my hon'ble friend has foreseen what the consequence will be. He assumes that these crops are sold as standin crops, and he says that the judgment-debtor should be allowed thirty days to deposit the amount for which attachment is taken, so that the judgment-creditor will be bound to allow the standing crops to remain standing for thirty day I submit that there would be great risk in that. If they cannot be reaped wh they may be damaged or destroyed, and if the judgment-debtor [illegible] I do not know what the effect may be [illegible]

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, in reply, said:—"I did not quite follow the reasoning of my hon'ble and learned friends who contend that the creditor has every right to cause the sale of these standing crops. I do not know what the practice is in Chota Nagpur, but if standing crop is moveable property, the creditor has every right to attach and sell it. Now what is the effect of that? Supposing a tenant has got some standing crops worth Rs. 100 we will say. The judgment-creditor can attach and sell it, and it may fetch only Rs. 10, the amount for which attachment is taken, and the creditor become the purchaser. The debtor should have the right to deposit the Rs. 10 within thirty days and release his standing crops, otherwise the result will be that the whole of the crops will be taken away. Then my hon'ble and learned friend sees a difficulty about letting the crops stand for thirty days. It is not that they must stand thirty days: he has to pay in the money within thirty days: he can pay it in the next day or the day after or in one week. I submit that you have changed the definition of the words 'standing crops' and made them moveable property, and I consider it nothing but fair and just to give them this privilege."

The Motion was then put and lost.

The Hon'ble MR. SLACKE moved that in proviso (*a*) to section 155 (*4*), in clause 41 of the Bill, for the words "two or all" the words "two or more" be substituted. He said:—

"By this clause four mea[illegible]r realising his dues are given the landlord. But [illegible] the clause is now wor[illegible] the landlord could ask to have one or two, or all, [illegible] of these me[illegible] to force. The amendment is therefore desi[illegible] would be safer [illegible] any or all of the means provided and [illegible]

The [illegible] one deal with the [illegible] and it is just doubt[illegible] licate procedure. I[illegible] should be inserted."

The Hon'ble MR. [illegible] said the learned and hon'ble [illegible]

The Motion was put and [illegible]

Clause 41 (section 157).

The Hon'ble MR. SLACKE moved that in section 157 (*2*), in clause 41 of the Bill, for the words "two or all" the words "two or more" be substituted. He said:

"[illegible] for this is identically the same as the one I have already with[illegible] to Item No. 75 in the List of Business."

The Motion was put and agreed to.

The Hon'ble MR. SLACKE also moved that the Secretary be directed to number the clauses of the Bill in consecutive order, and to make correspond-alterations in all cross-references thereto.

The Motion was put and agreed to.

The Hon'ble MR. SLACKE also moved that the Bill, as settled in Council, be passed.

The Motion was put and agreed to.

The Hon'ble the PRESIDENT said:—"I have to congratulate the Council on having passed this Bill, which has for so long a time occupied the attention

[*Babu Kali Pada Ghose*; *Mr. Slacke*; *Dr. Asutosh Mukhopadhyaya*; *the President.*]

He said:—"I submit that the addition of a clause like this is absolutely necessary, otherwise section 155 does not provide for an objection that might be filed by a third party, one who is in no way bound by the certificate made in such a case. There may be tenants in a village who are in no way bound, and they should certainly be given the right of objection. All the objections provided for are (1) objection by a mortgagee holding under a *bhagut bandha* mortgage, (2) an objection by a lessee holding under a *mukarari* lease, and (3) objection by a cultivator, and these cases will not cover the case I am supposing. So the amendment is absolutely necessary, otherwise a stranger might be prejudiced and his crops attached, and if he comes to the Deputy Commissioner and says that he is not liable under the certificate procedure which has been issued, and that the land the crops on which have been attached is entered in the record-of-rights as being in his possession and that the land does not form part of the tenancy in dispute, the Deputy Commissioner ought to release the crops on his objection. I therefore hope that the Council will see its way to accept this amendment."

The Hon'ble MR. SLACKE said:—"I am, Sir, in favour of this amendment."

The Motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that after sub-section (*4*) of section 155, in clause 41 of the Bill, the following be inserted, namely:—

'(*4A*). The provisions of sections 29 [illegible] ps are sold [illegible] oved that in sub-c[illegible] thin thi[illegible]ble, apply to proceedings [illegible]er sub-section 21 of the said [illegible] he following amendm[illegible]

He said:—"d:—"I may remind the [illegible] rops were immove[illegible] te made und[illegible] Act, 189[illegible] and I think it [illegible] "such third person;" [illegible] "certificate has been made;" an[illegible] these sections Recovery [illegible] immov[illegible] substitute [illegible] other moveable property [illegible] days to have Act." [illegible] that the judg[illegible] [illegible] an be realised."

The Hon'ble MR. [illegible] (*3*) of the proviso is an[illegible]ed in the way I suggest, crops when attached [illegible] a shape in which it will be acceptable to my hon'ble fri[illegible] moveable property [illegible] proposes to add sub-clause (*4*), and the whole question betw[illegible] [illegible]reshe[illegible] is whether clause (*3*) is to stand, and there should be an additional fourth sub-clause identical with my amendment, or whether clause (*3*) is to be amended as I suggest, and there need not be a fourth sub-clause.

"I would appeal to the Hon'ble Member in charge of the Bill, and submit that clause (*3*), as it stands, can have no possible application at all, and that if the clause is added, as suggested by my hon'ble friend, we shall have left in clause (*3*) which means nothing and cannot apply to any concrete case. I submit that clause (*3*) ought to be amended, and it is unnecessary to have clause (*4*)."

After a short conference with the Hon'ble Member in charge of the Bill, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I beg leave to withdraw my amendment."

The Motion was then, by leave of the Council, withdrawn.

The Hon'ble BABU KALI PADA GHOSH moved that after sub-clause (*iii*) of section 155 (*4*), in clause 41 of the Bill, the following be inserted, namely:—

'(*iv*) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was made.'

[*The President.*]

of Government, who were anxious to meet to the full the admitted requirements of the tenantry in Chota Nagpur. The acknowledgments of Government are due to the Hon'ble Member from Chota Nagpur, whose local knowledge has been of much help, and still more to the Hon'ble Member in charge of the Bill, without whose ripe experience and intimate acquaintance with details it would have been hard to deal with the Bill. I desire also to acknowledge the care and attention which has been bestowed on the Bill by the Select Committee in preparing their Report, and the careful criticism which has been forthcoming from the independent Members and representatives of various classes of the community. The result is that we have been able to pass this Bill to-day after a very long sitting.

"I have now only to adjourn the Council till this day week, but in doing so I desire to take this opportunity of making the announcement that the sanction of the Government of India and of the Secretary of State for India in Council has been obtained to the introduction of a Bill for the Settlement of Landed Estates in Bengal at as early a date as possible. I was at first of opinion that it would be impossible to introduce this Bill before the 22nd of this month, but matters are now so far advanced that an attempt will be made at the next meeting of the Council for leave to introduce the Bill, and at that meeting I hope to pass it through another stage and refer it to a Select Committee, so that the Bill itself may be passed early in the next month."

The Council was adjourned to Saturday, the 8th August, 1903.

CALCUTTA:
The 10th September, 1903.

A. P. MUDDIMAN,
For Secretary to the Council and
Assistant Secretary to the Govt. of Bengal,

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 8th August, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. L. P. PUGH, *Offg.* Advocate-General of Bengal.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

NEW MEMBER.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA took his seat in Council.

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Inglis; Dr. Asutosh Mukhopadhyaya.*]

QUESTIONS AND ANSWERS.

THE BHABUAH SUB-DIVISION OF SHAHABAD.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, in the absence of the Hon'ble BABU CHATURBHOOJ SAHAY asked :—

Will the Government be pleased to state how the matter of providing the Bhabuah Sub-division in the Shahabad district stands with reference to the following points:—

(*a*) The recommendations of the Irrigation Commission.

(*b*) Orders of the Government of India, if any, on the subject.

(*c*) Action taken or proposed to be taken by the Bengal Government in the matter with the result in the former case?

The Hon'ble MR. INGLIS replied:—

"The Answer to the Hon'ble Member's questions is as follows:—

"(*a*) The report of the Irrigation Commission has not yet been published.

"(*b*) No orders have been passed by the Government of India on the subject.

"(*c*) A preliminary survey has been made of the valley and catchment of the river Karmanassa. It has been ascertained that there is a possible site for a reservoir of considerable capacity. It is, however, doubtful whether the reservoir could be made within limits of cost proportionate to the value it would have as a protective work. The question is at present under inquiry."

PILFERING OF PARCELS ON RAILWAYS.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked:—

Has the attention of Government been called to an article in the "Moslem Chronicle" of the 1st August, 1903, headed "Pilfering of parcels on our Railways"?

Will the Government be pleased to direct the Railway Authorities to take steps to redress the grievance so generally complained of?

The Hon'ble MR. INGLIS replied:—

"The Lieutenant-Governor has seen the article referred to, and is aware that complaints of pilfering are frequently made. The Railway Authorities also are keenly alive to the existence of petty thieving and are doing what they can to stop it. In the absence of specific statements which can be verified, no useful action can be taken by Government."

TUTORS EMPLOYED TO TEACH ENGLISH AND LITERATURE IN COLLEGES IN BENGAL.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

(*a*) Will the Government be pleased to state the names of the gentlemen employed to teach English language and literature to students in the F.A., B.A., and M.A. classes of *first-grade* and *second-grade* Colleges under the Government of Bengal in the month of July, 1903?

[*Dr. Asutosh Mukhopadhyaya ; Mr. Earle.*]

(*b*) Will the Government be pleased to specify the Colleges in which no Europeans are employed to teach English language and literature in the F.A., B.A., and M.A. classes? In the case of each of the other Colleges, will the Government be pleased to specify how many European and how many Indian Professors are employed to teach English?

(*c*) Will the Government be pleased to state the names of the Professors or Lecturers in the Presidency College who are employed to teach English and the respective classes taught by them?

The Hon'ble MR. EARLE replied:—

"A statement giving the information asked for is laid on the table."

The following is the statement referred to:—

(*a*) The names of the gentlemen employed to teach the English language and English literature to students in the F.A., B.A., and M.A. classes of first-grade and second-grade colleges under the Government of Bengal in the month of July, 1903, are as follow:—

Presidency College.

.. ..	Babu Sasi Bhusan Dutt, M.A. " Bijoy Gopal Mukherjee, M.A. " Aditya Nath Mukherjee, M.A.
B.A	Mr. Jogendra Nath Das Gupta, B.A. (Oxon). Babu Bijoy Gopal Mukherjee, M.A. Mr. H. M. Percival, M.A. (Lond.).
M.A.	Mr H. M Percival, M.A. (Lond.). " Jogendra Nath Das Gupta, B.A. (Oxon).

Hooghlyge.

F.A., B.A., and M.A. classes ...	Babu Jyotish Chandra Banerjea, M.A. " Prakas Chandra Mazumdar, M.A.

Dacca College.

F.A., B.A., and M.A. classes ...	Mr. Hari Nath De, B.A. (Cantab). Babu Satyendra Nath Bhadra, M.A. " Aswini Kumar Mukherjee, M.A. " Jotindra Chandra Guha, M.A.

Rajshahi College.

F.A., B.A., and M.A. classes ...	Babu Hem Chandra Sarkar, M.A. " Rakhal Das Ghosh, M.A.

Ravenshaw College.

F.A., B.A., and M.A. classes ...	Babu Upendra Nath Maitra, M.A. " Ram Das Bhattacharya, M.A. (Officiating).

Krishnagar College.

F.A., B.A., and M.A. classes ...	Babu Devendra Nath Bose, M.A. " Satis Chandra De, M.A.

Sanskrit College.

F.A.	Babu Muralydhar Banerjea, M.A.

Chittagong College.

F.A.	Babu Khirod Chandra Ray Chowdhury, M.A

Patna College.

F.A., B.A., and M.A. classes ...	Mr. H. R. James, M.A. (Oxon). Babu Jadu Nath Sarkar, M.A.

[*Mr. Buckland.*]

(*b*) The colleges in which no Europeans are employed to teach the English language and English literature in the F.A., B.A., and M.A. classes are—

Presidency College (at present one Eurasian and four Indian Professors are employed).	Rajshahi College.
Sanskrit College.	Krishnagar ,,
Hooghly ,,	Ravenshaw ,,
	Chittagong ,,
	Dacca ,,

In the remaining college, viz., the Patna College, one European and one Indian Professor are employed to teach English.

(*c*) The list below shows the names of the Professors or Lecturers in the Presidency College who are employed to teach English and the classes taught by them :—

First-year class	Babu Sasi Bhusan Dutt, M.A. ,, Bijoy Gopal Mukherjee, M.A.
Second-year ,, ...	Babu Bijoy Gopal Mukherjee, M.A. ,, Aditya Nath Mukherjee, M.A.
Third-year ,, ...	Mr. Jogendra Nath Das Gupta, B.A. Babu Bijoy Gopal Mukherjee, M.A. Mr. H. M. Percival, M.A.
Fourth-year ,, ...	Mr. H. M. Percival, M.A. ,, Jogendra Nath Das Gupta, B.A.
Fifth-year ,, ...	Mr. H. M. Percival, M.A. ,, Jogendra Nath Das Gupta, B.A.

THE BENGAL SETTLED ESTATES BILL, 1903.

Hon'ble MR. BUCKLAND moved for leave to introduce a Bill to facilitate settlement of estates in Bengal and to provide for the maintenance of certain estates and said :—

"The Bill, with the Statement of Objects and Reasons, was, Sir, under your orders published in the Calcutta Gazette a few weeks ago, so that Hon'ble Members and the public have already had an opportunity of studying it. But I cannot rely upon the formal publication of the Bill as relieving me of the duty of offering an explanatory statement to the Council in making the motion which stands in my name. For some years past the British Indian Association have been applying to Government to legislate for the purpose of maintaining the position of the noble and wealthy families of Bengal, which, under the existing law of the Province, have been liable to fall into decay, owing, among other causes, to the division of estates, and many of which have, in fact, been thereby disintegrated. An incomplete list of the names of 25 such families was prepared without difficulty. The application of the landowners has met with the general approval of successive Lieutenant-Governors of Bengal and their advisers, and after a prolonged correspondence with the Government of India and the Secretary of State (which will show that the subject has been thoroughly discussed), the desirability of undertaking legislation for the family settlement of immoveable and moveable property in Bengal, with the object of preserving old or wealthy families from decay, maintaining their territorial influence and preventing the subdivision of estates of historical and political importance, has been acknowledged by all the authorities, and has found expression in a definite shape in this Bill. In other words, the object of the Bill is to make provision, in special cases approved by Government, for preserving the continuity of noble and influential families whose estates are not protected by the existing law from division on the decease of the proprietor.

"There are several main points to which I desire to invite the attention of the Council. There is perhaps no sentiment more universal in civilized human nature than that of family pride, and it is only a natural consequence of this sentiment that heads of wealthy families should adopt all the measures in their power to found a family (as it is called), to preserve the continuity of the family, and to improve its status. Thus, in some cases in Bengal,

[*Mr. Buckland.*]

and conspicuously so where there is an impartible Raj, the custom of primogeniture has prevailed, and it has been asserted that in former times large zamindaris could be willed, and descended, when there was no will, to the eldest son exclusively, subject to the rights of other sons to maintenance. The number, however, of cases of indivisibility of property in a family has not been large in Bengal. Speaking generally, Hindu Law makes for the division of estates. That is the character of the local Law of Succession. In cases of intestacy the property must be divided among all the sons. The direct effect of the *Dayabhaga* Law which prevails in Lower Bengal is to partition and break up landed property on the death of an owner among all his sons. Its principle is that every son should have a share of the father's property, whether ancestral or self-acquired: at the same time it allows the holder of the property for the time being to give away the property by gift or otherwise to any one of his sons to the exclusion of the rest, or even to a stranger. The power of making one son the heir is not exercised generally, because it can only be exercised for one life, and in its operation there is no security against alienations either by sale or mortgage. The universal effect is the division of estates.

"The *Mitakshara* Law is somewhat different, but, whenever joint-property is divided, all the sons take equally. Under the *Mitakshara* Law, a father cannot settle property on any one of his sons. Under the *Dayabhaga* Law, a father, as the sole owner of what he has acquired by inheritance or otherwise, has full power to dispose of it by deed or will in favour of his eldest or another son to the exclusion of the remaining sons; but, as was settled more than 30 years ago in the great Tagore Will case (which judgment did not deal with family settlements), he cannot settle it in favour of a son or remoter issue not born at the time of the settlement.

"The result, therefore, is that unless the Legislature intervenes, no Hindu head of a family can make a settlement of his property for the purpose of maintaining or improving the position of the family.

"Also, the Muhammadans have a law of inheritance, which, it is true, is not peculiar to Bengal, but the effect of which is the universal disintegration of the Muhammadan families. That the Muhammadan community appreciate the ill effects of the Muhammadan law of inheritance appears from their evasion of it by the device of a family entail under the name of a religious endowment. This device has been declared by the Privy Council to be invalid. Therefore, unless the Legislature provides a means, the Muhammadans are left without resource. It has therefore been decided to legislate by a permissive measure to give both Muhammadans and Hindus the power, which they have shown themselves desirous of possessing, of making a family settlement of their property. No one can be called upon to take advantage of its provisions against his will. It has been decided also not to insist or rely in any way on primogeniture as the sole condition upon which immoveable property may be settled. The object is to preserve the continuity of the family in the possession of the settled estates, and for this purpose the succession of members of the family other than the eldest son may, within certain limits, properly be recognised.

"And here I would take the opportunity of observing that, though this is a Government measure in one sense, it is not a measure which Government bring forward for their own purposes. It is understood that the principle of the creation and preservation of a body of influential and powerful landed gentry is one which commands the sympathy of the Government of India, and, no doubt it is to the interest of Government, who are responsible for the maintenance of law and order, to have the native leaders of society attached to them by some form of gratitude. Land-owners all over the world are a loyal and conservative body. This is so even where their tenures are the growth of ancient law and custom. And there are no firmer ties than that of land in India, where many of the tenures are the creation of the Imperial power. On occasions of plague, famine, religious and other disturbances, it is to the heads of the community that Government must turn, and experience shows that their influence can be best maintained, as a rule, by their position as landed proprietors. The

heads of families who have a great stake in the country and have, in fact, claimed to be not only important factors in the social economy, but also the real pillars of the State, may be expected, in times of trouble and disturbance, to rally to the side of Government rather than to espouse the cause of its enemies.

"Moreover, wealthy and settled families may be expected to show more consideration to their subordinate tenure-holders and tenants than proprietors who acquire subdivided estates by the partition law or as money-lenders, and look more to making profit out of the land than to the maintenance of position and dignity by possessing it. It is a great satisfaction to Government to see a prosperous and contented peasantry. But what I wish to emphasise is that, though there may be incidental gains which may accrue to the State from the passing of this permissive measure, they are not the objects for which the Bill is being introduced. That the Bill is not a necessity for Government is clear for two reasons. The power of Government is sufficiently strong and established already: on the other hand, there is no ground for making any general charge of discontent or disloyalty against the land-owners of Bengal as necessitating such a measure. The Bill may be useful to Government as an auxiliary support, it is not an indispensable element of strength.

"It has, indeed, been decided by Government that it is impossible to grant in full the application of the Bengal landowners, which originally aimed at obtaining legislation to permit the settlement of estates in perpetuity. It has long been the settled policy of the Statute Law of England to forbid perpetuities. This policy has been accepted in most civilised countries, and is based on the recognition of the principle that economically it is not expedient to fetter the free transfer of property. Departures from this principle can only be supported on the ground of strong political necessity. Exceptions have been made, indeed, from the settled policy of the Government of India and the Secretary of State in favour of certain talukdars of Oudh and in respect of certain ancient zamindaris in the Madras Presidency. But it has been ruled that there is no such necessity for a similar exception to the general policy of the Government of India being granted to the zamindars. [illegible] law against perpetuities, as it works in England, [illegible] property can be settled for a life or lives in being and [illegible] years. It has been decided, by slightly varying the English pre[illegible], to allow settlements of moveable and immoveable property to be made in Bengal, limited to three generations, not to three lives, and to allow each successive proprietor on succeeding to the property as tenant for life to make a new settlement, should he wish to do so. The right to make a new settlement is to be specifically granted afresh by the Local Government. The rights to be created by or under the family settlement are to prevail over rights derived from family custom or from the general law of succession to which the parties are subject. While a settlement will not have effect beyond the period authorized in the Bill, the opportunity to be given for re-settlement from time to time can be taken if the tenants for life so desire.

"If the Council have borne in mind what I said a few minutes ago about the present requirements of the Hindu and Muhammadan Laws, it will be obvious that this permissive Bill will give the heads of wealthy and influential families in Bengal power to make settlements of property which they cannot at present make. Though such settlements will be of a limited character—not in perpetuity—there will be nothing to prevent the settlement being continued to infinity, if the successive tenants for life are actuated by a becoming family pride and desire to maintain and improve the position of the family according to the provisions of the Bill. In England the settlements of land are strictly limited by law, but they have answered their purpose very well. In the case of almost every great English estate, it is protected by a deed which has no operation beyond the lives of the parties and their children. The main object of the deed is to keep the *corpus* of the property intact in the hands of the eldest son; the subsidiary object is to provide for the maintenance of widows and younger children. The settlement is renewed once in a generation, usually when the eldest son comes of age, or marries. The backbone of the English law of settlement is the rule against perpetuities, to

which I have alluded. The question which Government has had to consider has been whether it would be possible to devise a form of settlement which would enable land-owners in Bengal to do for themselves what English land-owners have been doing for many generations. The present Bill is the solution of the question offered. Its provisions I propose to deal with more fully when speaking to the motion for referring the Bill to a Select Committee.

"At present, Sir, I have the honour to move for leave to introduce the Bill to facilitate the family settlement of estates in Bengal."

The Motion was put and agreed to.

The Hon'ble MR. BUCKLAND also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended—

The Hon'ble MR. BUCKLAND introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. BUCKLAND also moved that the Bill be referred to a Select Committee, consisting of the Hon'ble Mr. Pugh, the Hon'ble Mr. Gupta, the Hon'ble Mr. Hare, the Hon'ble Maharaja Manindra Chandra Nandy, of Cossimbazar, the Hon'ble Rai Tarini Pershad, Bahadur, the Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca, the Hon'ble Dr. Asutosh Mukhopadhyaya and the Mover, with instructions to report at the next meeting of the Council. He said:—

"Sir, I said just now that in speaking to this motion I should deal more fully with the provisions of the Bill. The Bill itself is based partly upon the Oudh Settled Estates Act, 1900, so far as regards procedure and powers of alienation, and partly upon the Indian Perpetuities Bill in the form originally submitted by the British Indian Association. Many of the provisions of the Oudh Act which appear superfluous and unsuitable to Bengal have been omitted. The framework of the Bill may be briefly described. After the usual preliminary sections containing the title and definitions, there follow sections 3 to 6 which deal with the manner in which applications are to be made for permission to make a settlement and with the preliminary inquiries which are required before Government passes final orders on an application unless it is summarily rejected. Sections 7 to 16 deal with the provisions of such settlements, and explain how they are to be notified, how they may be modified or revoked and what is to be their effect. Sections 17 to 20 explain certain restrictions of the powers of the tenants for life, while sections 21 and 22 are intended to prevent the defeat of settlements under this measure by the operation of the Revenue Sale Law. Sections 23 and 24 deal with notifications and empower Government to make rules under the Act. Such is, speaking broadly, the framework of the Bill. I now turn to particular sections.

"In section 2 a change in the definition of the word 'estate' has recently been introduced by which that word has been made to include not only immoveable property, but also money and jewellery or other moveable property which should, in the opinion of the Local Government, be treated as heirlooms. Sections 3 and 4 particularly avoid specifying any classes of landholders who may be supposed to be entitled to make settlements and leave the power to grant such a concession entirely within the discretion of the Local Government. Section 5 provides for the issue of notifications for the purpose of giving full and free publicity to important transactions of the nature of such a settlement, so that objections may be filed and considered in time. It is thought that, unless such notifications are published, it will be impossible for Government

to ascertain the actual financial position of an estate. Section 6 deals with the rejection or approval of applications after notifications have issued.

"Sections 7 and 8 deal with the order of succession. They are intended to provide for settlement for three generations, *i.e.*, (1) the original settlor, the first tenant for life, (2) the second tenant for life, and (3) the ultimate holder. It is in this section that the variations from the present Hindu law are introduced, as the terms of the section allow a settlement of property upon one son only and upon a person yet unborn. The same section 7 provides that the settlement shall usually follow the natural course of succession, but a departure from this rule may be sanctioned by the Local Government for sufficient reason. There is nothing in the section which can be construed as allowing an estate to be settled away from the family in any case. From the reports that have already reached my hand it is evident that there is a considerable difference of opinion about this section which will require to be very carefully considered by the Select Committee. By a definition in the Bill the word 'son' includes an adopted son, and the Hindu practice of adoption makes it unlikely that settlors will often die without heirs. But section 8 makes provision for this extreme case by requiring that every settlement should contain provisions for further remainders.

"Under section 9 all incumbrances have to be specified in the settlement. Then provision has to be made for the discharge of incumbrances, for the payment of interest, for the maintenance of the widows, unmarried daughters and relatives (other than the second tenant for life) of the settlor. The same section provides for management in possible cases of minority. No restrictions on management, such as are found in English law, are imposed on an adult tenant for life in view of the strong opinion expressed by the British Indian Association in favour of giving the tenant for life absolute control over the property, subject of course to the provisions of sections 17 and 19, which impose restrictions on alienation and leases by the tenant for life.

"Section 10 provides for additions to the settled estate at any time and for the making of a fresh settlement either by the original settlor or by a subsequent tenant for life. The expression used in the Bill is that the fresh settlement is to be in supersession of the former settlement. It is not quite clear to me whether it is meant that the fresh settlement must contravene the former one, or whether it really means that a continuation or renewal of the former settlement will amount to a fresh settlement. I think this point requires examination.

"Sections 11, 12 and 13 state the formalities which must be observed before a settlement can take effect. It will be observed that section 12, sub-section (2), provides that every such deed of settlement should bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement, and such stamp-duty is made payable within three years. I am afraid that this provision of the Bill will be regarded as a severe tax by intending settlors, but it has been inserted by the Government of India as the condition on which the privilege of making such settlements is accorded, and it is perfectly clear that, if the condition is not accepted, the Bill, though passed by this Council, will not be approved by the Government of India. There is no alternative between accepting the provision and wrecking the Bill.

"Section 14 contains provisions necessary to prevent the ordinary law of the country or a special custom from operating to defeat settlements made under the Bill. Sections 15 and 16 provide for the revocation and cancelment of a settlement, for it seems proper that it should be possible under due safeguards, such as the sanction of Government, to terminate a settlement at any time.

"Sections 17 to 20 limit the powers of the tenant for life and save the provisions of the Bengal Tenancy Act of 1885. They also contain provisions that, when any portion of an estate is sold or when any premium or fine is taken for a lease, the proceeds shall accrue through official channels to the benefit of the estate, and not to the personal benefit of the tenant for life for the time being. Under the English law, as altered by modern legislation, the life owner of a great estate is usually invested with extensive powers

[*Mr. Buckland; Babu Kali Pada Ghosh; Rai Tarini Pershad, Bahadur.*]

of management: he may, for example, mortgage or sell the estate or part of it, but any capital sums which he may realize by the exercise of those powers are paid over to trustees and held by them on the same trusts as the land. The system works well in England, because it is not difficult to find good trustees. In India it may not be possible to find satisfactory trustees to act without remuneration, so that it is considered necessary, in such matters as the alienation or lease of a portion of a settled estate, to empower some officer of Government to perform the duties of a trustee.

"Sections 21 and 22 deal with the recommendations made by the British Indian Association, that a settled estate should be protected from sale under the Revenue Sale Law for default in the payment of land revenue. If it were possible for a tenant for life to default in the payment of the land revenue of an estate and thereby bring an estate to sale, it would be possible for him, unless otherwise prevented, to pocket the surplus proceeds of the sale. It is well known that in most cases there is a handsome surplus of the sale-proceeds after the arrear of Government revenue has been satisfied in a revenue sale. It has, therefore, been provided that such surplus of the sale-proceeds shall accrue to the benefit of the estate, and not to the personal profit of the tenant for life. The latter will, therefore, have no object in voluntarily incurring an arrear of land revenue so as to bring the estate to sale. Section 21 contains also a proviso to guard against the danger of *benami* purchases at sales for arrears of revenue. There is nothing more to be said about sections 23 and 24 of the Bill.

"These observations will, I trust, have put the Council in possession of all the points of the Bill which are worthy of their present notice."

The Hon'ble BABU KALI PADA GHOSH said:—"I do not think the Bill, so far as its main principle is concerned, can be open to any serious objection. It proposes to ensure permanence and stability of the ancient aristocracy of the Province, and as such it will be generally regarded as a wholesome measure. But it cannot at the same time be denied that the Bill will make a rather violent change in the existing Law of Succession. Under the *Dayabhaga* School of Hindu Law, one can bequeath his properties by a testamentary disposition or make a gift thereof in favour of any individual he chooses, and can even disinherit his own issues, but the gift must be to a person in existence and capable of taking effect at the time of the gift. Section 7 of the Bill, however, shows that a person making a settlement of his estate will be entitled to make such settlements in favour of an unborn son and even the son of an unborn son. The change will appear all the more striking in a case where a family is governed by the *Mitakshara* School of Hindu Law. In such a case a son by his very birth acquires a right to the ancestral property, and the father has not the power to dispose of the property either by will or gift, but under the provisions of the Bill, all the sons except one may be excluded from their legitimate shares in the ancestral property. This is certainly a point deserving of serious consideration, and I do not think it can possibly be intended that the Bill should go so far as to entitle a person to make settlement of a property over which he has no right of disposal under the principles of ordinary law. It seems to me to be desirable that the applicability of the provisions of the Bill should be restricted to large estates, and a pecuniary limit for this purpose should, if possible, be fixed.

"The objectionable feature of the Bill is, however, redeemed to a certain extent by the fact that it is a purely permissive measure, and in its practical application can affect only a few families in the whole of the Province, and that in the case of such as would voluntarily avail themselves of its provisions.

"In matters of detail the Bill is open to objection in several other respects, but I do not think I should be justified in taking up the time of the Council by dwelling upon such questions at this stage, as it will be for the Select Committee to carefully consider all questions of details."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"I heartily thank His Excellency the Viceroy and Your Honour's Government for the measure which

[*Rai Tarini Pershad, Bahadur; Dr. Asutosh Mukhopadhyaya.*]

has just been introduced by the Hon'ble Member in charge of it. I must say, Sir, that in the new measure I am not personally interested, for I have no property which is either large or of any importance which will in any way personally interest me in the new legislation. I, however, feel rejoiced at this occasion, as when it becomes law it will be a boon to those who are looking forward to it with unsavoury hearts.

"I must also say that if such a measure had ripened into law much earlier, many estates belonging to ancient families would have avoided a shipwreck and continued at least much longer than they did—many estates of considerable value and extent would have avoided change of hands and dismemberment. What the Hon'ble Member in charge has with Your Honour's permission introduced into the Council is nothing like anything unknown to this country. It owes its origin to long-established usages and customs existing from time immemorial, Regulation XI of 1793 and subsequent Regulations and the decided cases of the highest Courts testifying to the fact of the existence of such usages and customs.

"I would beg to lay before Your Honour a small mistake in the reply sent by the Bhagalpur Landholders' Association. They were under a wrong impression when considering the Bill that it will generally apply to Bengal proper and to the whole Presidency. It applies really to the whole Presidency, and it is all right.

"The provision in the Bill for stamp duty is looked upon by the public as a very harsh measure, and if it be not in the province of the Local Government and the Council to bring down the rate to a more reasonable and fair level, it had better be left alone, and the Bill, I hope, with certain improvements will become law.

"Another matter I beg to notice is that the definition of 'estates' should be made definite and final once for all, subject only as usual to be modified later on if necessary."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir,—Under the Rules for the conduct of Legislative Business in this Council, when a motion is made that a Bill be referred to a Select Committee, the principle of the Bill and its general provisions may be discussed; I trust, therefore, I may, without impropriety, submit to the Council, at this stage, some observations on the measure now before us.

"In the first place, I may be permitted to observe that the proposed legislation is of a very exceptional character. It restricts, in some measure, the operation of the rule against perpetuities and of the other wholesome rules which regulate the creation of future interests and the imposition of restraints on the alienation of property. It is too late in the day to question the policy which underlies these rules, and which has stood the test of criticism for centuries. Any legislative measure which purports to interfere with these rules, and which renders it possible that a considerable proportion of the land and capital of the community may be put in fetters, requires to be jealously scrutinised, and, I may say without hesitation, that if the measure now before us had gone much further than it does, had been of unrestricted application, and had not contained the safeguards to be found in the Bill, I should have found it extremely difficult to give it even my qualified support.

"The principle, however, which underlies the Bill, namely, the preservation of the ancient and aristocratic families of this Province from decay, has my unqualified approval, and, in so far as the provisions of the Bill are calculated to attain that object, they have my hearty support. I am afraid, however, that the extent to which by this Bill a concession is made in favour of our landed aristocracy has been misunderstood and to some extent exaggorated. Under the law as it has now been settled by judicial decision, a Hindu is entitled to deal with his property freely if the estate which he creates is, in respect of quality and quantity, such as is recognised in Hindu law and is not opposed to any principles of public policy. As pointed out by the Judicial Committee in the celebrated case of Tagore *vs.* Tagore, a Hindu is entitled to create a succession of life estates, provided

[*Dr. Asutosh Mukhopadhyaya.*]

the donee is a person in existence at the date of the gift. If, therefore, a landowner has his son and grandson alive, he is entitled to give a life-interest in his properties to his son, and subject to such life-estate, an absolute interest to his grandson. The Bill in substance provides that this may be lawfully done even if the son and the grandson are not in existence.

"To this extent the Bill abrogates the rule that the donee must be in existence capable of taking at the time when the gift is made; to the same extent, also, the Bill makes the rule against perpetuities inapplicable; subject in each instance to the restriction that the donee is selected with reference to the rule of primogeniture. The exception, therefore, which is made to the ordinary law of the land in favour of the aristocracy is of a limited character and ought to meet with our approval. In the absence of any provision in the law similar to those contained in the Bill, our ancient and wealthy families must ultimately be ruined; their estate must in each generation be divided amongst the owners, and consequently their family prestige and territorial influence considerably diminished.

"The observations I have made are applicable primarily to Hindu families, but they apply with still greater force to the Muhammadan nobility, who live under a law which allows upon the death of a proprietor, not merely his sons, but a number of relations, more or less remote, to partake in the inheritance. Indeed, I may be permitted to observe that so far as these Muhammadan families are concerned, the Bill in one sense comes too late for families in which a number of heirs has already succeeded to the inheritance, and I am happy to find that my views are in entire agreement with those of my hon'ble friend, the Nawab Bahadur of Dacca, when I say that it would have been more satisfactory if some scheme had been devised and embodied in the Bill for vesting the management of the entire estate belonging to such noble Muhammadan families in the eldest male member, who might rightly be regarded as the head of the family, and would be able to maintain its dignity and traditions.

"In the second place, Sir, I may be permitted to point out that the legislation is of a purely permissive character. The provisions of the Bill when passed into law will not be forced upon any of His Majesty's subjects, and it is idle to say that it interferes with the personal law of any member of the community, be he Hindu or Muhammadan. It is entirely optional with a landowner to say whether he will take advantage of the provisions of the Act or not. If he chooses to avail himself of the provisions of the Act, his choice will have to be approved by the Local Government before the settlement can be effected. I hope I am not making too great an assumption when I say that the Local Government may be trusted to exercise the discretion so vested in it fairly and wisely. At any rate, I have seen no substantial reasons advanced as to why such discretion should not be vested in the Local Government.

"I do not, Sir, at this stage propose to detain the Council with an examination of the various provisions of the Bill, but I may be permitted to point out that the details will have to be carefully examined. I may indicate, for instance, one question which will have to be faced, namely, the applicability of the Bill to the great landowners of Bihar, who are governed by the *Mitakshara* law. Other points which will require careful consideration will be, the number of generations to which the settlement should be limited, the provisions which must be adequate and effective for the maintenance of the relations of the settlor, the payment of the stamp duty on the settlement, the effect of this Bill upon existing laws and customs, and last, but not least, the question of the satisfaction of the debts due to creditors, raised in the very important letter from the Secretary to the Trades Association, which was placed in our hands last night. These and various other questions will have to be carefully considered and minutely scrutinised. I may be permitted, therefore, to express the hope that adequate time will be given to the Select Committee for the fullest discussion of every point connected with the Bill, and for the amplest consideration of representations which may be made by persons interested in or affected by a measure of such vital importance. Though I do not profess to be wholly unfamiliar with the subject, it seems to me that adequate time is absolutely necessary for the consideration of the details of this Bill in their various aspects."

[*Maharaja Manindra Chandra Nandy, of Cossimbazar; Maulvi Seraj-ul-Islam, Khan Bahadur; the President.*]

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar, said:—

"I beg fully to support the Hon'ble Dr. Asutosh Mukhopadhyaya. I also thank the Government for the introduction of this Bill, which will be a great boon to noble families of Bengal. There are many matters in this Bill that will require to be carefully considered and discussed, and I beg also that sufficient time be given for this discussion."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—"The policy that underlies this measure seems to me to be a sound and wholesome one, and the object of the Bill is to preserve the continuity of influential zamindar families, both Hindu and Muhammadan.

"From the Muhammadan point of view, Sir, I may submit that there seems to be no objection to the principle of the Bill, inasmuch as this principle is recognised in the Muhammadan Law itself and is known as Wakf Alal Aulad, or settlement on children. Although unfortunately the Privy Council has given an adverse decision on this point, but a large proportion of Muhammadan lawyers and authorities do not agree with the view of the Privy Council, and maintain that the Muhammadan law recognises this principle in our Wakf Alal Aulad, or settlement on children. That being so there will be no objection from the Muhammadan point of view to the principle of the Bill. No doubt it appears that the Bill trenches on the doctrine of perpetuity, but under section 2, clause (*d*), of the Transfer of Property Act, the Muhammadan Law is saved from the law of perpetuity. In other words, a Muhammadan can create a perpetuity even in spite of that law, as he is saved by section 2, clause (*d*). But, Sir, I quite agree with my hon'ble and learned friend, Dr. Asutosh Mukhopadhyaya, that this Bill does not go far enough, and I venture to urge that, unless the suggestion of the Hon'ble Nawab Bahadur of Dacca is adopted, and if this Bill is passed into law as it stands, it will be almost a dead-letter, because there is hardly one Muhammadan property in Bengal of which one person is the sole proprietor. The Bill provides only for cases in which there are no co sharers, where a man is the sole proprietor, and therefore Muhammadans will hardly be able to avail themselves of the benefits this measure is designed to confer. I trust that this matter will be carefully considered by the strong Select Committee that has been formed, and I hope they will see their way to giving the Bill a wider scope, for otherwise it will be of no avail to the Muhammadans in the Province.

"There is another point to which I should like to refer, and that is with reference to the stamp duty. The Council are no doubt aware that there is a consensus of opinion against the provisions of section 12 as regards the stamp duty, and there also seems to be objection as to whether the power of revocation ought to be given. I commend these matters to the careful consideration of the Select Committee, and while supporting the Bill submit that it ought to have a wider scope."

The Hon'ble the PRESIDENT said:—"Before putting this motion I desire to advert for one moment to the remarks which have fallen from some Hon'ble Members to the effect that full time should be given for the consideration of this Bill before the Select Committee submit their Report. As Hon'ble Members will see the terms of the motion which I have to put before the Council are that the Bill be referred to a Select Committee with directions to report at the next meeting of the Council, and the present intention is that the next meeting of the Council shall be on Friday next. I see that this announcement has been received with some surprise, and I therefore proceed to explain what the reasons are for calling a meeting of the Council at such an early date.

"In the first place, this Council will shortly disperse and the members of Government who compose it will be leaving Calcutta. During the week that is before us it is the intention of the Member in charge of the Bill to have several meetings of the Select Committee so that the work may be got through as quickly and as thoroughly as possible, and that their Report may be prepared by

[*The President.*]

next Friday. After that if the Report is prepared and presented, my intention is that it should be published for thorough and extensive criticism by all those concerned, and that the Select Committee's Report should not be taken up for consideration till some date at the beginning of the cold weather, so that six weeks or two months will be given for a complete study of that Report. Another reason is that it seems most likely that several important matters will be brought forward in Select Committee, and it may be necessary to refer some of them to the Government of India. If the Select Committee submit their Report next Friday, there will be time to submit those matters to the Government of India and to receive their reply before the next meeting of the Council.

"These are the reasons which have led me to think that this Report should be submitted at such an early date. I desire to add that it is always in the power of the Select Committee to submit a supplementary or additional report after receiving further suggestions."

The Motion was then put and agreed to.

The Council was adjourned to Friday, the 14th August, 1903, at 11 A.M.

A. P. MUDDIMAN,
For *Secretary to the Bengal Council and Assistant Secretary to the Govt. of Bengal, Legislative Department.*

CALCUTTA;
The 18th September, 1903.

B. S. Press.—419G—200—19-9-1903—C. W.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Friday, the 14th August, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. L. P. PUGH, *Offg.* Advocate-General of Bengal.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. L. P. SHIRREFS.

The Hon'ble MR. A. EARLE.

The Hon'ble BABU CHATURBHOJ SAHAY.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

[*Dr. Asutosh Mukhopadhyaya; Mr. Earle.*]

QUESTIONS AND ANSWERS.

EXPENDITURE FOR EDUCATIONAL REFORMS

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—

In the Bengal Financial Statement for 1902-1903, under head 22—Education, Rs. 42,42,000 was budgeted, including an Imperial grant of Rs. 10,00,000, for educational reforms.

(*a*) Will the Government be pleased to furnish details showing in what manner the normal grant of Rs. 32,42,000 and the special grant of Rs. 10,00,000 were actually spent between the 1st April, 1902, and the 31st March, 1903?

(*b*) Will the Government be pleased to state how much of such expenditure under each head was incurred between the date of the preparation of the Bengal Financial Statement for 1903-1904 and the 31st March, 1903?

(*c*) Will the Government be pleased to state the substance of any instructions given by the Government of India as to the manner in which the Imperial grant of Rs. 10,00,000 was to be spent, contained in their letters dated the 10th March, 1902, 10th May, 1902, and any other letters on the subject?

(*d*) Is it true that the Imperial grant of Rs. 10,00,000 was intended to meet, in part, the expenditure which will be the outcome of the recommendations of the Educational Conference held at Simla in September, 1901? If so will the Government be pleased to state what are the recommendations of the Conference which have been so carried out?

(*e*) Will the Government be pleased to state what sum out of the ordinary Education grant of Rs. 32,42,000, and what sum out of the Imperial grant of Rs. 10,00,000, included in the Financial Statement of 1902-1903, actually remained unexpended on the 31st March, 1903? Will the Government be pleased to state whether such unexpended balance lapsed to Government?

The Hon'ble MR. EARLE replied:—

"(*a*) The statistical information asked for in clause (*a*) of the Hon'ble Member's question is furnished, as far as it is available, in a statement which is laid on the table. The replies to the remaining clauses of the question are as follow:—

"(*b*) No reply can be given to this question, because, as a matter of fact, the Bengal Financial Statement is under preparation during the month of March: in the current year it was presented on the 27th of that month.

"(*c*) and (*d*) (*i*) The Government of India, in their letter of the 10th March, 1902, referred to by the Hon'ble Member, stated that they had decided to make a recurring grant of Rs. 10,00,000 to Provincial Revenues to meet increased expenditure under Education, while in their letter of the 10th May, 1902, they stated that the grant of ten lakhs was intended to meet, in part, the expenditure which would be the outcome of the recommendations of the Educational Conference held at Simla in September, 1901, and should not be generally utilised for charges falling outside that expenditure. No further instructions have been given with regard to this subject by the Government of India.

"(*ii*) The Lieutenant-Governor is not able to furnish information showing which of the recommendations of the Educational Conference, held at Simla in 1901, have been carried out, because the proceedings of that Conference are still treated as confidential.

"(*e*) A sum of Rs. 2,07,774 out of the Provincial grant of Rs. 32,42,000 and a sum of Rs. 2,05,409 out of the Imperial grant of Rs. 10,00,000 remained unexpended on the 31st March, 1903. The unexpended balances lapsed to Government."

[*Mr. Earle; Dr. Asutosh Mukhopadhyaya.*]

The following is the statement referred to above:—

THE actual expenditure out of the sum of Rs. 42,42,000 provided in the Education Budget was Rs. 38,28,837, as shown below —

			Rs.
(1) Direction	...	... ...	68,119
Inspection	...	...	3,41,058
Government Colleges		Arts	5,49,928
		Industrial and technical ..	2,25,146
Government Schools ...		High and middle ...	6,47,954
		Survey and training ...	2,62,874
Grants-in aid	...	... ...	5,39,727
Primary Schools	...	. ...	1,83,345
Scholarships	...	. ...	1,98,903
Miscellaneous	...	...	75,784
Refunds	...	... ...	6,129
		Total ...	31,00,067
(2) Transferred to District Boards—			
For the improvement of primary education ..			3,71,700
,, additional Sub-Inspectors of Schools			18,960
,, ,, remuneration to teachers in primary schools			1,16,170
purchase of furniture, etc., in primary schools ...			52,815
		Total	5,59,685
(3) Transferred to the Public Works Department—			
For Educational works			1,69,185
		Gross Total ...	38,28,837

The information available does not show separately and in detail the items of expenditure of the grant of Rs. 32,12,000 and of the 6 general grant of Rs. 10,00,000. Approximately, the expenditure incurred from the former amounted to Rs. 30,34,246, and that from the latter to Rs. 7,94,591.

REDUCTION OF GOVERNMENT SCHOLARSHIPS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

(*a*) Will the Government be pleased to state whether the junior Government scholarships awarded upon the results of the Entrance Examination of the Calcutta University and the senior Government scholarships awarded upon the results of the F. A. Examination of the Calcutta University have been reduced both in number and amount? If so, will the Government be pleased to state the extent of such reduction?

(*b*) Will the Government be pleased to state in what year the amount of each scholarship, which has now been reduced, was originally fixed? Will the Government be pleased to state for how many years the number which is now reduced has continued unchanged?

(*c*) Will the Government be pleased to state (1) the number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in 1903, (2) the number of junior and senior scholarships awarded upon the results of such examinations and the value of each of such scholarships, (3) the number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in the year in which the number and value of the junior and senior scholarships were fixed at the figures which were in force up to 1902, (4) the number and value of each of such scholarships in the year just mentioned?

(*d*) Will the Government be pleased to state whether it is true that some of the junior scholarships previously awarded upon the results of the University Entrance Examination have been diverted for the encouragement of students passing by the B and C standards under the new bifurcation scheme? If so,

will the Government be pleased to state the number and value of the scholarships so diverted? Will the Government be pleased to state the number of students who have appeared, or are likely to appear, at the B and C standard examinations and to whom the competition for the diverted scholarships is confined?

(*e*) Is the Government aware that though the ordinary monthly tuition fee in the Presidency College is Rs. 12, an exception has hitherto been made in the case of students holding junior scholarships who are required to pay only Rs. 10, being the amount of the junior scholarship of the lowest grade? Inasmuch as the value of the junior scholarship of the lowest grade is now reduced from Rs 10 to Rs. 8, will the Government be pleased to consider whether the tuition fee in the Presidency College should not be reduced from Rs. 10 to Rs. 8 in the case of students holding junior scholarships?

(*f*) Has the attention of the Government been drawn to paragraphs 71 to 75 of the Report of the Indian Universities Commission relating to the raising of fees in Colleges and the establishment of a "comprehensive and liberal system of scholarships" for the benefit of "poor but really able students"? Will the Government be pleased to consider whether it is advisable to reduce the number and value of the scholarships when the question of raising the fees and establishing a liberal system of scholarships is under the consideration of the Government of India?

(*g*) Will the Government be pleased to state the reasons for the reduction in the *value* of the scholarships? Will the Government be pleased to state what is the amount saved annually by such reduction?

The Hon'ble MR. EARLE replied:—

"The statistical information asked for by the Hon'ble Member, under heads (*a*) to (*d*) of this question, is given in a statement which is laid on the table. The replies under heads (*e*), (*f*) and (*g*) are as follow:—

"(*e*) Government is aware that junior scholars reading in the Presidency College are required to pay Rs. 10 a month as tuition fees. The question of a reduction of these fees, in the case of these scholars, who now receive stipends amounting to Rs. 8 *per mensem* only, was fully considered in the year 1902, but it was decided that no change should be made.

"(*f*) and (*g*) Government is fully aware of the remarks recorded in paragraphs 71 to 75 of the University Commission's report, to which the Hon'ble Member has alluded, and those observations are still under consideration. The reduction in the number and value of the scholarships now under discussion was made at the instance of the Government of India, who, in reviewing the Report on the Progress of Education in India from 1892-93 to 1896-97, observed that the amount spent on junior and senior scholarships in Bengal had exceeded the 2 *per cent.* limit fixed by the Education Commission of 1881. A reduction was, accordingly, effected in the manner above shown, the whole of the amount thus set free (Rs. 14,376 *per annum*) being allotted for the creation of additional primary scholarships."

The following is the statement referred to above:—

(*a*) The number of Junior Government Scholarships awarded upon the results of the Entrance Examination of the Calcutta University has been reduced by 18, but no reduction has been made in the number of Senior Government Scholarships awarded upon the results of the F. A. Examination. The values of both the Junior and Senior Scholarships have been reduced, as shown below:—

JUNIOR SCHOLARSHIPS.

1st grade.

6 Scholarships from Rs. 20 to Rs. 16 a month.

2nd grade.

41 Scholarships from Rs. 15 to Rs. 12 a month.

[*Mr. Earle; Dr. Asutosh Mukhopadhyaya.*]

3rd grade.

87 Scholarships from Rs. 10 to Rs. 8 a month.

SENIOR SCHOLARSHIPS.

1st grade.

10 Scholarships from Rs. 25 to Rs. 20 a month.

2nd grade.

40 Scholarships from Rs. 20 to Rs. 16 a month.

(*b*) The values and number of these scholarships were originally fixed in the year 1889. No change was made in the number of these scholarships till the year 1902.

(*c*) (1) The number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in the year 1903 from schools or colleges in Bengal, exclusive of private candidates, who are ineligible for scholarships, was 5,693 and 3,552, respectively.

(2) The number of Junior Scholarships awarded on the result of the Entrance Examination, exclusive of 3 special scholarships for females and 20 special scholarships for Muhammadans, was 134, while the number of Senior Scholarships awarded on the result of the F. A. Examination, exclusive of 2 scholarships for females and 20 special scholarships for Muhammadans, was 50. The values of these scholarships were as shown under (*a*) above. The values of special scholarships for girls are the same as those of scholarships for boys, while the values of the special Senior Scholarships for Muhammadans are Rs. 10, or Rs. 7 a month, respectively (10 at Rs. 10 and 10 at Rs. 7), and those of special Junior Scholarships for Muhammadans are Rs. 7 a month.

(3) The number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in the year 1889 from the schools or colleges in Bengal, exclusive of private candidates, who are not eligible for scholarships, was 4,761 and 2,099, respectively.

(4) In the year 1889 there were 152 Junior Scholarships, exclusive of 3 special scholarships for females and 20 special scholarships for Muhammadans, and 50 Senior Scholarships, exclusive of 2 special scholarships for girls and 20 special scholarships for Muhammadans. The values of the Junior Scholarships were Rs. 20, Rs. 15 and Rs. 10, and those of the Senior Scholarships Rs. 25 and Rs. 20, respectively. The values of the special scholarships for girls were the same as those of scholarships for boys, while those of special scholarships for Muhammadans were as shown in *c* (2) above.

(*d*) Four Junior Scholarships of the first grade, 6 of the second grade, and 8 of the third grade, of the values of Rs. 16, Rs. 12 and Rs 8, respectively, previously awarded upon the result of the Entrance Examination, have been transferred to students passing by the B and C standards under the new bifurcation scheme. The number of students who appeared at the recent B and C examinations was 84.

PLACING OF GOVERNMENT COLLEGES UNDER INDIAN PROFESSORS

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked —

In paragraph 864 of the Bengal Administration Report for 1901-1902, page 313, it is stated that "the policy of Government of placing certain of the Government Colleges entirely under Indian Professors is being gradually carried out."

(*a*) Will the Government be pleased to state when the policy referred to in the preceding extract was inaugurated, and specify what steps have been taken to give effect to such policy?

[*Dr. Asutosh Mukhopadhyaya ; Mr. Earle.*]

(*b*) Will the Government be pleased to specify the names of the Government Colleges which are *now entirely* under Indian Professors, and also the names of the Colleges which are intended to be placed under Indian Professors?

(*c*) Will the Government be pleased to state whether it is intended to include the Presidency College in this category? Will the Government be pleased to state the number of Professors and Lecturers now employed in the Presidency College, and specify how many of these are Indian and how many non-Indian?

(*d*) In the case of Government Colleges which have already been placed *entirely* under Indian Professors, will the Government be pleased to state whether it is true that such Indian Professors belong, in the majority of instances, to the Provincial Service, whereas the European Professors whom they have replaced belonged generally to the Imperial Service? Will the Government be pleased to state whether it is true that such employment of Indian Professors has resulted in a substantial saving in the cost of management of such Colleges?

(*e*) Will the Government be pleased to state whether these Indian Professors, who are on a lower grade and draw a lower salary than the European Professors whom they have replaced, are carrying on educational work with equal efficiency?

The Hon'ble MR. EARLE replied:—

"(*a*) and (*b*) The policy of placing certain of the Government Colleges entirely under Indian Professors emanated from a recommendation made by the Public Service Commission in the year 1886-87, to the effect that the English agency employed in the Educational Service should be reduced. This recommendation was, however, qualified by an expression of opinion that there should be, in each Presidency, at least one College with a staff of Professors capable of teaching up to the highest European standards, under a European Principal, and that the same object should, as far as possible, be kept in view as regards the smaller Colleges. In pursuance of this policy, while several officers of the Indian Educational Service have always been attached to the Presidency College, and the Dacca and Patna Colleges have each been provided with a Principal and a Professor belonging to that Service, the Colleges at Hooghly, Krishnagar, Rajshahi, Cuttack and Chittagong, and the Sanskrit College, Calcutta, have usually been manned by officers of the Provincial Educational Service, which consists almost entirely of Indian gentlemen. All the last-named Colleges, with the exception of the Hooghly College, are at present entirely officered by Indian Professors. There is no proposal to increase the number of Colleges which are entirely placed under such Professors.

"(*c*) As shown above, it is not intended to include the Presidency College in the category of those institutions which are to be placed entirely under Indian Professors. There are at present attached to the Presidency College 15 Indian and 7 European Professors. Owing to the absence, on deputation and leave, of four European Professors from this College, there has recently been some temporary reduction in the number of such officers and a corresponding increase in the number of Indian Professors.

"(*d*) In the case of Government Colleges, which have been placed entirely under Indian Professors, such Professors usually belong to the Provincial Service. According to present arrangements, however, the Dacca College will shortly be entirely manned by Indian Professors, two of whom will be in the Indian Educational Service. Inasmuch as the rate of pay in the Provincial Service is lower than that which prevailed in the former superior graded service, from which the European Professors were previously drawn, the substitution of Indian for European Professors has resulted in a substantial reduction in the cost of maintaining the Colleges under consideration.

"(*e*) In order to institute the comparison between the educational work of the Indian Professors and that of the European Professors whom they have replaced, as desired by the Hon'ble Member, it would be necessary to call upon the Director of Public Instruction for a full report. The Lieutenant-Governor is not disposed to take this step."

[*Mr. Buckland; the President.*]

THE BENGAL SETTLED ESTATES BILL, 1903.

The Hon'ble MR. BUCKLAND presented the Report of the Select Committee on the Bill to facilitate the family settlement of estates in Bengal.

The Hon'ble the PRESIDENT said:—"Since we last met in this Council Chamber, the Select Committee on the Bill for the family settlement of estates in Bengal have worked with such assiduity that the Hon'ble Mr. Buckland has been able to present to-day their Report on the Bill.

"It will be recollected, however, that on Saturday last I mentioned that there might be certain matters in the Report which might necessitate a reference to the Government of India. I have perused the Report which the Hon'ble Mr. Buckland has just presented, and I find that my expectations have been fulfilled. There are several modifications of importance which the Select Committee have felt themselves obliged to recommend. Therefore, in accordance with the provisions of Rule 7 of the Instructions of the Government of India regarding legislation in Local Councils, I consider it necessary to delay the further progress of this Bill until these matters have been laid before the Government of India and their instructions have been received.

"In these circumstances the Report will not be published at present, and the further consideration of the Bill, to which it refers, will be postponed till some later date."

The Council was adjourned *sine die*.

A. P. MUDDIMAN,

CALCUTTA;
The 18th September, 1903.

For *Secretary to the Bengal Council and Assistant Secretary to the Govt. of Bengal, Legislative Department.*

B. S. Press—420G—260—19-9-1903—C. W.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 12th December, 1903.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. T. K. GHOSE.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

The Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH, BAHADUR, K.C.I.E., of Gidhour.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.

NEW MEMBERS.

The Hon'ble MR. WOODROFFE, the Hon'ble MR. GREER, the Hon'ble MR. T. K. GHOSE, and the Hon'ble BABU BHUPENDRA NATH BASU took their seats in Council.

[*Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Shirres.*]

QUESTIONS AND ANSWERS.

SALARIES OF MINISTERIAL OFFICERS.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—

WITH reference to the Hon'ble Sir Denzil Ibbetson's announcement that a sum of $3\frac{1}{2}$ lakhs of rupees has been provided in the current year's budget for the improvement of clerical establishments in District Offices (*vide* Gazette of India, 4th April, 1903, Part VI, page 113)—

(*a*) will the Government be pleased to state what proportion of the grant has been assigned to Bengal; and

(*b*) will the Government be further pleased to inform the Council whether, in view of the urgent need for reform, there is any likelihood of an early revision of the salaries of ministerial officers in District Offices?

The Hon'ble MR. SHIRRES replied:—

"(*a*) The reply to the first portion of the Hon'ble Member's inquiry is that no part of the grant in question has been assigned to Bengal.

"(*b*) With reference to the latter half of his question, I would invite the Hon'ble Member's attention to the remarks of the Hon'ble Mr. H. M. Kisch, Financial Secretary to the Government of Bengal, made in the course of the debate on the budget in the Council held on the 9th April, 1902. He reminded Hon'ble Members who had commented upon the absence of provision from the budget for improving the pay of ministerial officers that the question had never been lost sight of, that Government was in full sympathy with the desire that all grades of ministerial officers should be sufficiently remunerated, and that though financial considerations had prevented the entertainment of wholesale proposals for a simultaneous increase in all Departments of Government, improvements had been effected from time to time in several important offices. In the past few years the position of the lower paid subordinates of the Custom House, of the offices of the Director of Land Records and Agriculture, the Collector of Income-tax, and the Inspector-General of Jails, and of the District Tauzi establishments has been materially improved, and I need only repeat the words of the Hon'ble Mr. Kisch that 'when the Government is in a flourishing condition and such applications are supported by good grounds, they are almost invariably sanctioned.'

"The question of my hon'ble friend suggests, however, that this Government should take up the question and deal with it as a whole at an early date. Unfortunately it is impossible to make any promise at present; because if anything like a complete revision of establishments were required, involving a large increase of recurring expenditure, the whole of it would have to be met from Provincial Revenues. At present, however, the resources of the Province are undergoing the periodical revision which is a necessary incident of the method of decentralizing Provincial finance which has prevailed up to the present. The object of such a revision is to establish equilibrium between income and expenditure, and it is obvious therefore that no new recurring expenditure on a large scale can be undertaken until sufficient time has elapsed for the revenue to grow so as to give a surplus."

TRANSFER OF THE CHITTAGONG DIVISION TO ASSAM.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked:—

(*a*) HAS the attention of the Government been called to the persistent reports in the newspapers, especially in the *Pioneer*, to the effect that the transfer of the Chittagong Division to Assam will soon take place?

(*b*) Has the Government any information on the subject?

(*c*) If not, will the Government be pleased to obtain information and lay it on the table, regard being had to the strong feeling of opposition which the proposal has evoked from the people of the Chittagong Division?

[*Mr. Macpherson; Rai Tarini Pershad, Bahadur; Mr. Inglis.*]

The Hon'ble MR. MACPHERSON replied:—

"(*a*) The attention of Government has been drawn to the reports referred to and to the article in the *Pioneer*. The latter appears to have been based on the Notification which appeared in the Gazette regarding the acquisition of land in Chittagong. That acquisition, however, does not pledge the Government to anything, but would be wise whether Chittagong is transferred to Assam or not.

"(*b*) The *Gazette of India* published this morning contains a letter (No. 3678, dated 3rd December, 1903) from the Secretary to the Government of India in the Home Department, in which the proposal to transfer Chittagong to Assam has been mentioned along with other proposals for reducing the size of this province. The Government of India have fully set forth their views; and the public have as much information as this Government has on this matter.

"(*c*) The matter is now one to be taken up by this Government, an expression of whose views has been invited by the Government of India."

RAILWAY ACCIDENT NEAR SONEPUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

I beg to call the attention of the Government to the serious railway accident which took place a few months back on the Bengal and North Western Railway near the Sonepur Station, resulting in loss of life. Is it the case that an inquiry was held? If so, will the Government be pleased to lay on the table the report of the inquiry, or if that be impracticable, the main findings of the report with the reasons thereof? Is it the case, as stated in the *Bengalee* of the 7th October last, that since the accident there has been "a reduction in the number of signallers at the following stations: Bhagwanpur, Kurhani, Turki, Dhole and Ugarpur; that a reduction of signallers at other stations is under contemplation, and that there has been a reduction of hands in other Departments besides the Traffic Department?" If this information is correct, will the Government be pleased to inquire into the reasons for such reduction?

The Hon'ble MR. INGLIS replied:—

"An inquiry was held. Copies of the reports which give the results of the judicial and departmental inquiries, and copies of the judgments of the Magistrate of the district by whom certain persons were tried, are laid on the table. It has been ascertained that the signallers at the Kurhani, Turki and Ujiarpur stations have been withdrawn during the current half-year with the approval of the Consulting Engineer. Certain signallers were also removed (but were not dismissed) from a number of smaller stations on the Bettiah and Khanwa Ghat branches, where they were being trained for service on new extensions of the Bengal and North-Western Railway system."

THE BENGAL AND NORTH-WESTERN RAILWAY.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

(*a*) Has the attention of Government been drawn to a communication from Darbhanga under the heading of "B. N.-W. Ry.," published in the daily issue of the *Bengalee* of the 21st October last? Will the Government be pleased to state whether it does not think it proper to take any steps to remedy the grievances complained of?

(*b*) Will the Government be pleased to state whether it is a fact that the Board of Directors of the Bengal and North-Western Railway have proposed to take lease of the Eastern Bengal State Railway? If so, will the Government be further pleased to state whether it has arrived at any decision on the point?

The Hon'ble MR. INGLIS replied:—

"(*a*) The Lieutenant Governor has seen the communication. The Bengal and North-Western Railway is controlled by the Government of India through the Consulting Engineer for Railways, Lucknow. The attention of the Consulting Engineer has been drawn to the grievances stated, and he has been requested to furnish a report on the subject.

"(*b*) The Lieutenant-Governor has no information."

[*Rai Tarini Pershad, Bahadur; Mr. Inglis; Dr. Asutosh Mukhopadhyaya; Mr. Earle.*]

CONVEYANCE OF THIRD-CLASS PASSENGERS ON THE EAST INDIAN RAILWAY.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

Has the attention of Government been drawn to an editorial in the same issue of the *Bengalee* headed "Herding of 3rd-class passengers in goods wagons on the East Indian Railway"? Will the Government be pleased to state whether it does not consider it desirable to take steps to remove the grievance therein mentioned?

The Hon'ble MR. INGLIS replied:—

"The Lieutenant-Governor has seen the article. The use of covered goods wagons for the conveyance of passengers is at times necessary and unavoidable to meet exceptional rushes of passenger traffic. The rules under which the use of the wagons is permitted are contained in Chapter XIII, paragraph 37 of the General and Subsidiary Rules for the Traffic Department of the East Indian Railway; they have had the approval of Government. The rules guard against overcrowding, and provide for lighting at night. The Traffic Manager, East Indian Railway, has explained that in October last 115 wagons were used for the conveyance of passengers returning from the Pitripakha *méla* at Gaya, and that the average number taken in each wagon was 23½. The rules permit of 25 being carried in a covered iron wagon in the hot weather, and 34 in the cold weather."

IMPERIAL GRANT FOR EDUCATIONAL PURPOSES.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, said:—

With reference to the Imperial grant of ten lakhs of rupees for educational purposes during the year 1903-1904, will the Government be pleased to state—

(*a*) whether any (if any, what) scheme has been prepared for the expenditure of the money during the year?

(*b*) how much of the money has already been spent and in what manner?

The Hon'ble MR. EARLE replied:—

"A statement is laid upon the table showing (*a*) how the Imperial grant of ten lakhs of rupees for educational purposes during the year 1903-1904 has been allotted; (*b*) how much of the grant made under each head has already been spent or will probably be spent; and (*c*) the actual or probable balance under each head. It is not possible to give more exact figures, because, in many cases, the money is in process of expenditure by the local authorities. Every endeavour is being made to utilise the anticipated balances before the close of the year."

Statement showing (a) how the Imperial grant of ten lakhs of rupees for educational purposes during the year 1903-1904 has been allotted; (b) how much of the grant made under each head has already been spent or will probably be spent; and (c) the actual or probable balance under each head.

	Sanctioned distribution of the Imperial grant of ten lakhs for Educational work during the year 1903-1904.	Rs.	A.	P.	Probable amount which will be spent, or amount which has actually been spent.	Probable or actual balance available	Rs.	A.	P.
1.	For an Assistant Director of Public Instruction.	6,500	0	0	Rupees 1,500 only will be spent within the year, because a successor to Mr. Peake, who has been appointed Assistant Director, has only recently been selected by His Majesty's Secretary of State.		5,000	0	0
2.	For an Inspectress of Schools and her establishment.	3,000	0	0	Most of the money will be available for expenditure under other (Educational) heads, because the lady, who is to be Inspectress of Schools, has only recently been appointed by His Majesty's Secretary of State.		2,000	0	0

[*Mr. Earle.*]

Sanctioned distribution of the Imperial grant of ten lakhs for Educational work during the year 1903-1904		Probable amount which will be spent, or amount which has actually been spent	Probable or actual balance available
	Rs. A. P.		Rs. A. P.
3. For an additional High School for girls	8,000 0 0	Arrangements have been made for opening the school; and the money will, it is expected, be spent.	Nil.
4. For an additional Sub-Inspector of Schools in Singhbhum.	900 0 0	Exact figures are not available, but it is believed that the money will be spent	Nil
		Rs. A. P.	
5. For opening Commercial classes at the Kurseong Victoria Boys' School.	6,000 0 0	2,900 0 0 (spent)	3,100 0 0
6. For opening a Middle English School in the northern quarter of Calcutta for Muhammadans.	6,000 0 0	6,000 0 0 (spent)	Nil
7. For raising the status of the Dacca Survey School.	60,000 0 0	51,694 14 11 (spent)	8,305 1 1
8. For the opening of Training Schools for Primary School Teachers.	57,000 0 0	Exact figures are not available, as the money is in process of expenditure by the local officers. Some savings are expected, which will be utilised for the purchase of lands, etc., for the schools	
		Rs. A. P.	
9. For opening new institutions for training female teachers	15,380 0 0	15,380 0 0	Nil
10. Additional grant sanctioned in 1903-1904, over and above the grant for 1902-1903, under the head of Grants-in-aid.	1,41,000 0 0	Exact figures are not available probably the whole sum will be spent	Nil
		Rs. A. P.	
11. For scholarships to be held in Europe	4,500 0 0	4,300 0 0 (spent)	200 0 0
12. For the training of officers in Europe	2,000 0 0	Nil.	2,000 0 0
13. For the Astronomical Observatory in the Presidency College	11,000 0 0	11,000 0 0 (spent)	Nil
14. For apparatus for Government schools.	2,400 0 0	1,279 11 0 (do.)	1,120 5 0
15. For Primary Education, the money having been placed at the disposal of District Boards	4,00,000 0 0	4,00,000 0 0	Nil
16. For Sub-Inspectors of Schools, the money having been placed at the disposal of the District Boards.	63,000 0 0	63,000 0 0	Nil
17. For tents for the students of the Bihar School of Engineering	4,000 0 0	4,000 0 0	Nil
18. For opening "continuation" schools.	10,800 0 0	Exact figures are not available, because the money is being spent by the local officers, no savings are expected.	Nil
		Rs. A. P.	
19. For opening four Training Classes for female teachers	2,500 0 0	2,500 0 0	Nil
20. For the salaries of a Nurse and an Assistant Matron at the Victoria Boys' School, Kurseong.	295 8 0	295 8 0	Nil.
21. For the suppl[illegible] of an oil-gas apparatus, [illegible] for the construction [illegible] workshop, for the Rajsh[illegible] College.	3,000 0 0	3,000 0 0	Nil.
22. For the acqu[illegible] of land for the exte[illegible] of the Nawab's Madrasa [illegible]shidabad.	4,839 0 11	4,839 0 11	Nil.

[*Mr. Earle.*]

Sanctioned distribution of the Imperial grant of ten lakhs for Educational work during the year 1903-1904.		Probable amount which will be spent, or amount which has actually been spent.	Probable or actual balance available
	Rs. A. P.	Rs. A. P.	
23. For a building grant to the Diocesan Girls' School, Darjeeling.	25,000 0 0	25,000 0 0 (spent)	Nil.
24. For the up-keep of the electric plant in the Civil Engineering College, Sibpur.	800 0 0	800 0 0	Nil.
25. For a verandah for the Balasore Zilla School.	3,102 0 0	3,102 0 0	Nil.
26. For the opening of a special class at the Presidency College.	3,150 0 0	The class was opened in June 1903 The greater part of the money will, therefore, be spent.	
		Rs. A. P.	
27. For the construction of servants' quarters at the Victoria Boys' School, Kurseong.	5,000 0 0	5,000 0 0	Nil.
28. For additional grants to Circle Schools.	676 0 0	676 0 0	Nil.
29 For two typo-writing machines for the Commercial Classes at the Presidency College	663 0 0	663 0 0	Nil.
30 For the construction of new verandahs at the Madrasah Hostel at Chittagong.	1,175 0 0	1,175 0 0	Nil.
31. For the construction of a masonry drain round the Chittagong Training School building.	1,050 0 0	1,050 0 0	Nil.
32. For the reconstruction of the Boarding House for Sonthal students at the Dumka Zilla School.	2,858 0 0	2,858 0 0	Nil.
33. For the acquisition of land for the play-ground of the Taki Government School.	433 5 9	433 5 9	Nil.
34. For raising the status of the Ranchi Industrial School.	1,000 0 0	1,000 0 0	Nil.
35 For initial charges for Guru-training Schools	49,239 0 0	Exact figures are not available, because the money is being spent by the local officers: no savings are expected.	Nil.
36. For improvements of the buildings of the Cuttack College.	57,280 1 3	It is reported that Rs. 17,000 only can be spent by the Public Works Department before the close of the year. The balance of Rs. 40,000 will now be utilised for other (educational) purposes.	
		Rs. A. P.	
37 For the restoration of the Dumka Zilla School.	10,998 0 0	10,998 0 0	Nil.
38. For the purchase of chemicals for the Chemical Laboratory of the Bihar School of Engineering	1,050 0 0	1,050 0 0	Nil.
39. For the improvement of the water-supply at the Dow Hill Girls' School, Kurseong.	5,200 0 0	5,200 0 0	Nil.
40 For the acquisition of land for the Patna College Hostel.	18,250 0 0	18,250 0 0	Nil.
41. For the extension of the Hooghly College Library.	684 0 0	684 0 0	Nil.
42. For remuneration to officers conducting tests at the Civil Engineering College, Sibpur.	800 0 0	800 0 0	Nil.
Rs. ...	10,00,522 15 11		
Deduct odd hundreds of rupees ...	– 522 15 11		
Total ...	10,00,000 0 0		

[*Dr. Asutosh Mukhopadhyaya ; Mr. Macpherson ; Mr. Shirres.*]

RE-ORGANISATION OF THE PROVINCIAL CIVIL SERVICE.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said :—

With reference to the statement contained in paragraph 6 of the explanatory notes on the Bengal Financial Statement for 1903-1904 that a grant of one lakh of rupees has been made for the improvement of the status of Sub-Deputy Collectors and that a grant of one lakh and five thousand has been made for the re-grading of Munsifs and additional temporary Sub-Judges, will the Government be pleased to state what action has been taken in respect of each of these matters during the current financial year?

Will the Government be further pleased to state the financial effect of the changes introduced?

The Hon'ble MR. MACPHERSON replied :—

"The scheme for the re-organisation of the Subordinate Civil Service is still before the Government of India, who called for further information, which has recently been submitted. The estimated increase of expenditure provides for an increase in the cadre of this service as well as for a re-adjustment of the number of officers in each grade; and it was inaccurately noted therefore as intended to be allotted (entirely) for improvement of the status of Sub-Deputy Collectors.

"The scheme for the re-grading of Munsifs was sanctioned in 1902, and the increased expenditure of Rs. 74,400 *per annum* involved thereby will proceed against the grant for that purpose. Temporary Subordinate Judges have been sanctioned for six months in three districts, and this increased expenditure, which is estimated at Rs. 9,522, will also be a charge against the grant for such portion of the period as falls within the current financial year."

GRANTS TO DISTRICT BOARDS FOR FEEDER ROADS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked :—

(*a*) Will the Government be pleased to state the details of the grants made to District Boards for feeder roads during the first-half of the current financial year?

(*b*) Will the Government be pleased to call for a report shewing in what manner the grants made to various District Boards for feeder roads during the year 1902-1903 were utilised by those bodies and lay the same on the table?

The Hon'ble MR. SHIRRES replied :—

"(*a*) A statement containing the information asked for in the first part of the question has been laid on the table.

"(*b*) With reference to the second part of the question, if my hon'ble friend wishes, I can supply him with copies of the annual reports of the Divisional Commissioners on the working of the District Boards: these reports are in print and contain some information on the subject. Or, if he will communicate with me and state precisely why he asks the question, I may possibly be able to supply him with other information which he may desire. The Lieutenant-Governor, however, has no reason to doubt that these grants are properly expended, and he is not willing to call for special reports and returns from a large number of districts unless there is some clear and definite object to be gained thereby."

Annexure to the above Answer.

THE following grants have been sanctioned by the Financial Department in the first-half of the year 1903-1904 :—

District		Rs.
Bogra	For Jamalgunge and Etakhola hât road	7,252
	" Panchbibi to Lokma hât road ...	6,659
Monghyr ..	For road from Burbigha to Sheikpura railway station	50,000
	" " " Serari to Chowriah railway station ...	
	" " " Jaimangla to Serari railway station	
	" " Ramgarh to Sheikpura railway station	
		63,911

[*Babu Kali Pada Ghosh; Mr. Shirres; Mr. Macpherson.*]

INCOME-TAX.

The Hon'ble BABU KALI PADA GHOSH asked :—

Will the Government be pleased to state—

(*a*) The amount of income-tax assessment in Bengal during the year 1902-1903 on incomes above one thousand rupees, and also the amount of current year's assessment on such incomes?

(*b*) The average annual increase in the income-tax revenue during the last five years?

(*c*) Whether the Government contemplates any reduction in the staff of income-tax assessors in view of the expected decrease in the income-tax revenue on account of the raising of the minimum limit of assessable income?

(*d*) Whether the Government is aware that there has been a tendency on the part of some of the officers employed in making assessment of the income-tax to make up the deficiency in revenue consequent upon the raising of the minimum limit by excessive assessments? If so, will the Government be pleased to issue such instructions as the Government may think fit in this behalf?

The Hon'ble MR. SHIRRES replied :—

The replies to sub-heads (*a*), (*b*), (*c*) and (*d*) of the question are :—

(*a*) The amount of income-tax assessment in Bengal during the year 1902-1903 on incomes above one thousand rupees was Rs. 46,76,552, exclusive of fines, penalties, refunds, &c. The amount of the current year's assessment on such incomes is not yet known.

(*b*) The average annual increase in income-tax revenue during the five years ending with 1902-1903 was Rs. 1,65,000.

(*c*) A reduction in the staff of income-tax assessors will be made with effect from 1st April, 1904.

(*d*) The Government is not aware that there is any such tendency.

POLICE CONTRIBUTIONS IN CHOTA NAGPUR.

The Hon'ble BABU KALI PADA GHOSH asked :—

Is the Government aware that a cess called the Police contribution is realised from several chaquadars in the districts of Chota Nagpur? Will the Government be pleased to state whether there is any law authorising the levy of such cess? If there is no law, will the Government be pleased to direct that the realisation of the cess be discontinued?

The Hon'ble MR. MACPHERSON replied :—

Government is aware that a contribution on account of Police establishments is levied from some of the landholders in the Chota Nagpur Division, as from some of the zamindars in other parts of Bengal under the provisions of clause 1, Article VII, Section VIII of Regulation I of 1793.

"These contributions have been realised from the time when the landholders were exonerated from the charge of Police establishments. If in any cases they are not realised under the provisions of the law just cited, it is presumed that they are covered by the terms of the agreements into which the landholders have entered either at the time of settlement of their lands or when they were relieved of their police duties. If in any case any landholder thinks that the contribution should not be realised from him, he can make a representation to the District Officer.

"On the information before him, the Lieutenant-Governor is certainly not prepared to direct that the realisation of these contributions should be discontinued."

[*Babu Kali Pada Ghosh; Mr. Shirres; Mr. Earle.*]

POLLUTION OF THE RIVER HOOGHLY.

The Hon'ble BABU KALI PADA GHOSH asked:—

Is it the case, as stated in the *Bengalee* of the 17th September, 1903, that the water of the Bhagirathi is being polluted near some of the mills situated on the banks of the river by the discharge into it of liquified night-soil? If so, then having regard to sanitary considerations and especially to the religious feelings of the Hindu community who regard the Bhagirathi as a sacred stream, will the Government be pleased to direct the discontinuance of the practice?

The Hon'ble MR. SHIRRES replied:—

"THE Government is not aware of any arrangements in mills on the banks of the Bhagirathi such as are indicated. Presumably the question refers to the septic tanks which have been installed in certain mills on the banks of the Hooghly. The substance which is discharged from these tanks is not, as the question would seem to imply, crude sewage in a liquid form, but a clear fluid, in appearance not unlike ordinary river water. When the system is properly worked, the fluid is non-putrescible and nearly odourless. I have a sample of it here which my hon'ble friend may examine if he wishes. This substance is chemically quite different from crude sewage. It is not wholly innocuous, for it still contains bacteria, and it could not be allowed to flow into the Hooghly in proximity to the intake for the Calcutta water-supply; but the contamination from this cause is insignificant compared with that from riparian Municipalities and villages, from carcases floating down the river, and from boats on the river. At the same time the Government fully recognises the desirability of keeping the water of the Hooghly as clean as possible, and some time ago the Commissioners of the Presidency and Burdwan Divisions were asked whether the effluent from these septic tanks could not otherwise be disposed of. What action will be taken with this object cannot be stated until the reports have been received and duly considered."

RECRUITMENT OF FEMALE COOLIES BY GARDEN-SARDARS

The Hon'ble BABU KALI PADA GHOSH asked:—

Has the attention of the Government been drawn to the fact that there is no distinct provision in the Assam Labour and Emigration Act, 1901 (VI of 1901), for an inquiry by the Registering Officer, in the cases of recruitment of female coolies by garden-sardars, although there are such provisions in cases of recruitments by recruiters. Will the Government be pleased to state if any measures have been taken to prevent the abuses which are likely to be committed for want of such a provision in the law?

The Hon'ble MR. EARLE replied:—

"This matter has already received the special attention of Government. In the case of the recruitment of women by recruiters, the Registering Officer has to be satisfied of the consent of the guardian, or of the fact that there is no guardian, in the manner laid down in section 34 (*3*) and (*4*) of Act VI of 1901. On the other hand, under section 69, read with section 9, when women are recruited by garden-sardars, the presumption is that the guardian (if there is one) consents, unless he comes forward to object; and it is only when there is positive reason for suspecting that a woman is being "cajoled away" from her lawful guardian, that special inquiries should be made. At the same time, the terms of section 69 clearly do not contemplate that the examination by the Registering Officer of intending emigrants should degenerate into a mere matter of form. Accordingly, it has been decided that it is incumbent on Registering Officers to make special inquiries in cases in which circumstances arouse a suspicion that a contract is being entered into by a woman against the wishes, or without the consent, of her husband or lawful guardian. This procedure is being followed with good results, and no further action at present seems necessary.

[*Mr. Buckland; the President.*]

THE BENGAL SETTLED ESTATES BILL, 1903.

THE Hon'ble MR. BUCKLAND applied to the President to suspend the Rules of Business for the purpose of referring the Bill to facilitate the family settlement of estates in Bengal to a Select Committee.

He said:—"In making this application I ought to explain in a few words how the situation has arisen which makes it necessary. It will be within the recollection of the Council that, on the 8th August last, I obtained leave to introduce the Bengal Family Settled Estates Bill. It was then referred to a Select Committee, which met from day to day and took much trouble in making their report quickly after fully examining all the papers which had then been submitted to them, and presented their report at the meeting of the Council held on the 14th of August. On that occasion the late Officiating Lieutenant-Governor stated in Council that for the reasons which he gave it was impossible to proceed with the discussion and publication of the report as the matter had to be referred again to the Government of India. That reference has been made, and, their reply having been received, it is now necessary to proceed with the measure. But the rules of the Council are such that, the report having been once presented, it ought to be now taken into consideration. But now that fresh matter has to be introduced, the Bill must go again to a Select Committee, and, therefore, I have to ask you, Sir, to suspend the Rules of Business to enable this to be done."

The Hon'ble the PRESIDENT, having declared the Rules suspended,

the Hon'ble Mr. BUCKLAND moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Hare, the Hon'ble Mr. Gupta, the Hon'ble Mr. Woodroffe, the Hon'ble Rai Tarini Pershad, Bahadur, the Hon'ble Nawab Bahadur Khawaja Salimullah, of Dacca, the Hon'ble Dr. Asutosh Mukhopadhyaya, and the Mover, with instructions to report on the 9th January.

The Motion was put and agreed to

THE BENGAL PUBLIC PARKS BILL, 1903.

THE Hon'ble MR. BUCKLAND also moved for leave to introduce a Bill for the regulation of Public Parks in Bengal.

He said:—"As the Bill is a short one, consisting only of eight sections, I propose, in accordance with the usual practice of this Council when the Bill is a short one, to make my explanatory remarks on the first opportunity that offers. The object of the Bill is to provide for the protection of Public Parks and Gardens in Bengal from injury, and to secure the public who visit these parks from molestation and annoyance while resorting to them.

"The late Superintendent of the Botanic Garden at Sibpur, Howrah, Sir George King, shortly before retiring from the service a few years ago, reported to Government, as the result of his 25 years' experience, that it was not only desirable but necessary that the rules in force in the garden there should be put on a legal basis. Hitherto, they had only been operative as having been sanctioned by Government. Sir George King stated that, at the time when the rules were originally issued, the mere fact of an order having the sanction of Government was sufficient to insure its being obeyed, but he had found from his long experience that something more had become necessary. The warnings and checkings which it had been found necessary to have recourse to, under the rules, were found to be insufficient in practice, and, when cases came before the Law Courts, they invariably failed because of the want of jurisdiction. He mentioned some cases in which people had been found committing small offences against the rules and certainly deserved punishment, but, on their being prosecuted, it was impossible to have them punished. Sir George King therefore suggested that a small Bill should be brought into Council and passed on the model of the Public Parks' Act in England. A Bill was framed for the purpose, and at one time it was thought likely that a Bill would be passed in the Council of His Excellency the Governor General, but for some reason or

[*Mr. Buckland.*]

another that idea was abandoned, and as there was a great deal of legislation before this Council at one time, this Bill was held in abeyance. Within the last year or two, however, the project has been revived and further experience in the gardens there and in other places have shown that it is necessary that the management, not only of the Botanic Garden, Howrah, but also of the Zoological Garden, Alipur, should have legal powers to enforce the rules which they have found necessary for the preservation of peace and order, as I might say, and for the protection of the property in the gardens under their charge.

"The authorities of the gardens, both at Howrah and at Alipur, have been consulted, and they have expressed their entire approval of the project as being necessary to give them the power they want to carry out the rules. The rules are perfectly simple and are probably well known to the public already, but as I have said, it is impossible to obtain the punishment of anyone offending under the rules. The Bill, therefore, has been framed and modelled on the English Parks' Act.

"The principal provision is that, a certain number of the higher subordinate officials are to be made park durwans and vested with small police powers. They are to have power to arrest people who infringe the rules and to take them up to the Superintendent in charge of the garden, or in his absence, to the next highest officer in charge of the garden, by whom they may be detained until they give their correct name and residence. As soon as they give their correct name and residence they will be allowed to go. There is also a provision in the Bill that no person can be detained under this section for a longer period than 24 hours, but I suppose five minutes will be the ordinary period of detention, and there need be no detention at all, if an offender at once gives his correct name and residence.

"The next provision gives to the park durwans certain general powers, duties and responsibilities. There will be very few of them in both gardens, perhaps half-a-dozen in each case. These park durwans are to be vested with the powers, and be liable to the duties, of a police constable within the limits of the police-station in whose jurisdiction their park or garden is, and every park durwan is to be subordinate to the Superintendent of the garden.

"There is also a provision for fine or imprisonment for an assault on a park durwan. I am sorry to say that many of the offences which have occurred both at the Botanic Garden, and at the Zoological Garden, are cases either of assault on the servants of the garden, or threatened assault.

"The Bill also proposes to take power on the lines of the Public Parks' Act in England to give to every police constable employed within the limits of the police station within whose jurisdiction the garden is, the powers, privileges and immunities conferred on a park durwan by this Act. That in fact is the whole of the Bill.

"It is intended that the Bill should apply at first only to the five public parks or gardens specified in the Schedule, with power to the Government to add any more parks or gardens to the number.

"The only object of the Bill is to legalise what is now attempted to be carried out by the rules which have long been in force as the rules of these gardens, but which have had no legal authority. I therefore beg to move for leave to introduce a Bill for the regulation of Public Parks in Bengal.

The Motion was put and agreed to.

THE BENGAL EXCISE BILL, 1903.

THE Hon'ble MR. BUCKLAND also moved for leave to introduce a Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom.

He said:—"This Bill will be a much longer one and will take up much more of the time of the Council than the Bill upon which I have just been speaking. It is therefore my intention only to make a few remarks on this occasion and to address the Council at greater length on a subsequent occasion when it becomes necessary to ask for the Bill to be read in Council or to be referred to a Select Committee. I will only now say that the Bill is chiefly a consolidating measure, and that opportunity has been taken to make certain amendments of the law as the result of long experience.

"This Bill has been in contemplation for the last ten years. That is all I need say on this point at the present moment. The last consolidating Excise Act was passed in 1878. When the Bill, which afterwards became that Act, was introduced into Council by the Hon'ble Mr. Reynolds, the Secretary to the Government of Bengal, in 1876, he stated that the Excise law was then contained in five or six Acts, and it was therefore desirable to consolidate the law. He quoted at that time a dictum of the Government of India of 1875 in which that Government said that it was most desirable that the law on a subject on which the public were largely interested should be clearly arranged, and therefore the Government of India suggested consolidation.

"If it was thought necessary to consolidate the law in 1876, when the law on Excise was contained in five or six Acts, it is much more necessary to consolidate the law now, when the Excise law is contained, not only in the Act of 1878 but also in nine Amending Acts.

"It has been the custom, when Acts are amended from time to time, to issue copies of them as modified up to date. I hold in my hand a copy of the Excise law as modified up to the 1st December, 1903, but it is one thing to have an Excise Act complete in itself and a very different thing to have the Excise law as modified up to date by amendments in the possession of a few officers and the officials in charge of the Excise Department. It is hardly sufficient, I think, to be content with the Legislative Department issuing the additions to the law itself as modified up to date. From time to time it is certainly necessary that the law should be consolidated and re-issued in a complete form. The Bill, which I now ask leave to introduce, will extend the main Act from 85 sections to 105. As I have already said, the opportunity has been taken to make some amendments which are recommended by long experience. Many suggestions have been received from many officers and other quarters, and some amendments are based on the experience gained in other provinces where the Excise Act has been administered with great ability and profit to the country.

"I do not propose to go into any further details on this occasion, and beg to move for leave to introduce a Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom."

THE Hon'ble MR. WOODROFFE said:—"I have listened with attention to the speech of the Hon'ble Member in charge of the Bill, and have noticed with regret that although this is a 'Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom,' and the preamble states:

'Whereas it is expedient to consolidate and amend the law in force in Bengal relating to the manufacture, sale, possession, import, export and transport of excisable articles, to the regulation and licensing of places in which such articles are sold, and to the collection of the revenue derived from such articles.'

"No reference seems to be made to the desirability of introducing into the Bill such clauses and provisions as are to be found in the License Acts in Europe with a view to prevent drunkenness.

"When this Act was last before the Council in 1903, being a Member of the Select Committee, I proposed certain amendments in order to discourage and prevent, as far as possible, the sale of intoxicating liquors and drugs to habitual drunkards, women and children. The principle of these amendments was accepted unanimously by the Select Committee, but it being pointed out to me that it was the intention of the Legislature shortly to introduce a Bill to consolidate the whole of the provisions relating to excisable articles, in which the amendments proposed would more properly find place, I consented on the assurance of the Hon'ble Member in charge of the Bill then before the Select Committee that the amendments which I proposed to introduce into the Act of 1903 should then be considered and dealt with. I consented to their standing over until the introduction of this Bill. In the speech of the Hon'ble Member I find no reference to them. They are very important matters affecting the well-being of the community. In a licensing Bill we have not

only to consider the interests of the Government and the profit arising from collection of revenue from the sale of excisable articles, but also the health and morals of the community, and the diminution of the prevalent vice of drunkenness and crime consequent thereon, and we are bound to put upon persons who hold licenses from Government such control as shall be proper and expedient in order to prevent these licensed houses becoming sinks of iniquity and a danger to the community.

"I trust, therefore, that this Bill does contain such provisions, but if it does not, I would respectfully suggest that the matter should be carefully considered, and proper powers taken for the introduction of such clauses."

THE Hon'ble the PRESIDENT said:—"I think that I may, perhaps, best serve the interests of the Council by simply saying that what the Hon'ble Mr. Woodroffe has just said will certainly receive consideration between the present time and the date when the Council will be asked to refer the Bill to a Select Committee. I suppose it is not necessary to call upon the Hon'ble Member in charge of the Bill to make any remarks in this connection, as he has promised that he will lay before us the principles in detail when he will move that it be read in Council or be referred to a Select Committee. I can give the Hon'ble Mr. Woodroffe the assurance that his remarks will receive full consideration."

The Motion was then put and agreed to.

THE BENGAL TRAMWAYS (AMENDMENT) BILL, 1903.

THE Hon'ble MR. SHIRRES moved for leave to introduce a Bill to amend the Bengal Tramways Act, 1883.

He said:—"This Bill will, I think, be a reward in this Council for shortness and has for its object the introduction of only two words into the existing Act.

"The first section runs as follows:—

'This Act may be called the Bengal Tramways (Amendment) Act, 1903'

"Section 2 is as follows:—

'After the word 'shorter,' in the proviso to section 41 of the Bengal Tramways Act, 1883, the words 'or longer' shall be inserted.'

"All that is desired by this Bill is that the words 'or longer' shall be inserted.

"In the law as it stands at present, when the local authority makes an agreement for the construction of a tramway, it must, at the expiry of a period not longer than 21 years, exercise the option or right of purchase. This limitation to 21 years has in practice been found to prevent the construction of tramways, and therefore this Bill has been introduced to extend the period."

The Motion was put and agreed to.

The Council was adjourned to Saturday, the 19th December 1903.

CALCUTTA;
The 30th December, 1903.

F. G. WIGLEY,
Secretary to the Bengal Council and Assistant Secretary to the Govt. of Bengal, Legislative Department.

B. S. Press—746G—260—2-1-1904—L. N.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 19th December, 1903.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. T. K. GHOSE.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD, BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

The Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K.C.I.E., of Gidhour.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.

The Hon'ble BABU SALIGRAM SINGH.

NEW MEMBER.

The Hon'ble BABU SALIGRAM SINGH took his seat in Council.

[*Mr. Buckland; the President; Babu Bhupendra Nath Basu.*]

THE BENGAL PUBLIC PARKS BILL, 1903.

The Hon'ble MR. BUCKLAND introduced the Bill for the regulation of Public Parks in Bengal, and moved that it be read in Council.

He said:—"At the last meeting of the Council I explained at some length the object of this Bill for the regulation of Public Parks in Bengal and the necessity for it. I do not think I need trouble the Council with any further remarks on this occasion. I therefore beg to move, Sir, for leave to introduce the Bill for the regulation of Public Parks in Bengal, and to move that it be read in Council."

The Motion was put and agreed to, and the Bill was read accordingly.

The Hon'ble MR. BUCKLAND then applied to the President to suspend the Rules of Business for the purpose of referring the Bill to a Select Committee.

The Hon'ble the PRESIDENT said:—"In passing orders on this application of the Hon'ble Mr. Buckland, I think it right to say that I do not as a rule consider it well to suspend rules which have been solemnly made, but as I do think that there will be a great loss of time in this case I shall suspend the Rules of Business. I may also inform the Council that, as I think there is loss of time generally if the rules on this subject are observed it is under consideration to have them amended."

The Hon'ble Mr. Buckland moved that the Bill be referred to a Select Committee, consisting of the Hon'ble Mr. Gupta, the Hon'ble Mr. Greer, the Hon'ble Rai Tarini Pershad, Bahadur, the Hon'ble Maharaja Sir Ravaneshwar Prashad Singh, Bahadur, of Gidhour, and the Mover.

The Hon'ble BABU BHUPENDRA NATH BASU said:—"With your Honour's permission I beg leave to offer a few remarks on this Bill. At the last meeting of the Council the Hon'ble Member in charge of the Bill was pleased to observe that this Bill was only following the lines of the Public Parks Act in England, and that it was introducing nothing into the Legislature of this country which required any particular notice. He was also pleased to observe that in the case of detention of any person visiting the gardens, the detention would be only for a few minutes. The Hon'ble mover referred to these matters as if they were matters of very little importance in considering the provisions of this Bill. I may say at once that I am against the multiplication of Penal Laws in this country. We have a most elaborate system of Criminal Law which embraces within itself every possible crime and misdemeanour which may arise. Some of these parks to which this Bill is intended to apply have been in existence in Bengal for many years; the Zoo has been in existence in its present site for more than a quarter of a century, and the Botanical Gardens for a very much longer period, but up to now the necessity for a Bill of this description has not been felt. We have been referred to no specific instance in which there has been a breach of the peace, or any disturbance of the public peace in these gardens which the law as it now stands has failed to deal with.

"I may remind the Council that, taking as an instance the Zoo, a large number of ignorant villagers with their women-folk and children, visit the Zoo daily. It forms one of the chief attractions in the city of Calcutta to the mufassal men. I do not think it necessary to refer in this Council to the feeling with which the country at large and more especially the more ignorant classes regard the subordinate branches of the Police, and here we are seeking to invest the park durwans with the powers of police constables, with the powers of arresting offenders on the spot and taking them to the thana. I submit that the terrors of the subordinate Police of this country are enough, and they need not be added to in this way unless a strong and clear case has been made out. There have been rules for the guidance of visitors to these gardens in existence for many years, and to our knowledge these rules have been seldom, if ever, violated.

[*Babu Bhupendra Nath Basu; Mr. Shirres.*]

The rules are of a very simple kind and can very easily be followed by the visitors who frequent the parks. If the durwans get power to arrest a man for violating any of these rules, it will be imposing a very severe burden upon the durwan himself and imposing a very severe penalty upon the people visiting the parks. The analogy of the English Law has been cited. We know, Sir, that such a law exists in England, but the mere existence of a Law on the Statute Book of the British Parliament is not enough to create an analogy between England and India. There they have to deal with a more virile race, with men who know their rights and know how to assert them. Here we have to deal with ignorant villagers, most of them unacquainted with the vernaculars in which these rules are to be printed and put up in the gardens,—ignorant villagers who have a greater dread of the police constable than of the highest dignitary in the land, who do not know how to protect themselves and do not know how to act in an emergency like this when for a very simple act or for an unintentional offence they may be arrested by the park durwan, who is to be vested with the powers of a police constable. If the analogy of British Laws was used in cases where people prayed for a privilege as in a case where the Government sought to impose a liability which was necessary, I should have nothing more to say. But if the analogy was brought forward for the sake of introducing a piece of legislation which is not necessary, I think I have a clear right to say that this analogy in itself should not be held sufficient. In the case of the park durwan or park-keeper in England the right to arrest applies only to a case in which the offence takes place before the park-keeper himself. Here this Bill goes further than that. Clause 5 says: 'If any person who in the presence of a park durwan in uniform has committed or has been accused of committing a breach of any rule made under section 3, refuses, on demand of such durwan, to give his name and residence, or gives a name or residence which such durwan has reason to believe to be false, such person may be arrested, etc.'

"This is clearly introducing an innovation which does not exist in the English Act. It goes further than the English Act. As I have been trying to explain to this Council, the Zoo for instance is visited mostly by ignorant men who reside far away in the interior; they can bring forward no evidence that will satisfy the park durwan that the name and address given is correctly given, nor can the durwan himself ascertain whether the name and address given is correct.

"Apart from the initial difficulties of having to deal with ignorant men, there is this substantial difficulty in the event of this section being put into operation. I do not wish to take up the time of the Council unnecessarily, but I humbly beg to submit that no case has been made out for the introduction of such a law. The crowds who frequent these parks, the Zoo and the Botanic Garden, mostly belong to the non-criminal classes. As we all know, the object of their visit to Calcutta is to go to Kalighat, and on the day before their departure they take a turn round and go to the Zoo, and woe to the villager who should by any chance be detained on the day of his departure for twenty-four hours. If such a law is to be introduced it should be safeguarded. The simpler remedy would be to invest the Park Superintendent with certain powers to enable him to impose a fine, so that he might deal with an offender there and then, instead of detaining a man and taking him before a Magistrate. These are the observations which I have ventured to offer for the consideration of Council."

The Hon'ble MR. SHIRRES said:—"I have listened with much attention to what has fallen from the Hon'ble Babu Bhupendra Nath Basu. The gist substance of his remarks is to the effect that no case for legislation has been made out. He says that to our knowledge no such a case has ever occurred to justify the introduction of this measure. I am sorry to say that he is under a misapprehension, and I shall be happy to furnish him with the list of offences which led to this Bill being drawn up. The complaints which led to the drafting of this Bill have extended over a long series of years, and the

attention of the Government has been drawn to the matter repeatedly by Sir George King and the present Superintendent of the Botanic Garden.

"The Hon'ble Member also objects to certain of the provisions of the Bill, but it is hardly my part to go into this. I would merely remark that the provision as to the taking of the address of an offender is a well-known provision in the Code of Criminal Procedure which has been in force for a long series of years, and has not been found to be productive of the difficulties which the Hon'ble Member anticipates."

The Hon'ble MR. BUCKLAND said:—"I should like to say a few words in reply to the Hon'ble Member who spoke last but one. He says that the necessity for the Bill has not been made out. I thought I said enough on the last occasion to show that the rules under which these gardens are now managed are not sufficient for the purpose. I shall be glad to go over the ground again with the Hon'ble Member if he desires me to do so in the Select Committee to which I propose to add his name as a member. He also said that no specific cases have been brought to the notice of the Council to show the necessity for this measure. If I did not bring specific cases to the notice of the Council it was not for want of them. I have here provided myself with eight specific cases from the Botanic Garden and a similar number from the Zoological Garden to show that cases have occurred in which the powers for which I am now asking the Council were necessary. The people who visit the gardens are not only the poor unsophisticated villagers to whom the Hon'ble Member refers, but there are sometimes rowdy and turbulent gentlemen belonging to other nationalities whose spirits sometimes leads them into excesses which they no doubt regret, but for which they must be called to account.

"The Hon'ble Member also quoted some of my remarks on the last occasion to the effect that the detention was only to be for a few minutes. I think I also said that there need be no detention at all if the person accused gave his correct name and address. How the correctness of the name and address is to be ascertained is a matter of some difficulty. But it may be supposed that when a person is under such accusation he will give his correct name and address or he might find himself in greater trouble hereafter. Nor is it the case that a park durwan is to take an accused person off to the thana. He has first of all to take him to the Superintendent and in his absence to the next highest officer in the garden, who we may presume is a person of some intelligence and respectability, and by whom the case will be properly investigated, so that no injustice may be done by the park durwan or any other person concerned. I do not think I need detain the Council at any length in referring to this subject in greater detail; in fact, there is nothing more to be said. It is quite essential that these rules, which have been long in force under the sanction of the Government, should have legal force, and if the sections are not drafted entirely to the satisfaction of the Hon'ble Member, it will be open to him to make any suggestion he likes in Select Committee."

The Hon'ble MR. BUCKLAND then moved that the Bill be referred to a Select Committee, consisting of the Hon'ble Mr. Gupta, the Hon'ble Mr. Greer, the Hon'ble Rai Tarini Pershad, Bahadur, the Hon'ble Maharaja Sir Raveneshwar Prashad Singh, Bahadur, of Gidhour, the Hon'ble Babu Bhupendra Nath Basu, and the Mover.

The Motion was put and agreed to.

THE BENGAL EXCISE BILL, 1903.

The Hon'ble MR. BUCKLAND introduced the Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom, adn moved that it be read in Council.

[*Babu Bhupendra Nath Basu; the President; Mr. Elworthy; Mr. Buckland.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—"I should like to point out that the Bill, as printed, is defective. Section 15 does not appear in the printed Bill circulated to us."

The Hon'ble the PRESIDENT:—"This is undoubtedly a printer's error, but I do not think it could have led to a mistake on the part of Members. It has been promised by the Secretary that a corrected copy will be circulated later on, and this I think will relieve the technical difficulty raised. I do not think any Hon'ble Member could have been led to any misunderstanding by reason of this clerical mistake having been made."

The Hon'ble BABU BHUPENDRA NATH BASU said:—"It is not for the purpose of taking a technical objection that I have drawn attention to this omission. These are very important provisions, relating to the sale and possession of exciseable articles, in which we, as representatives of the public, are more interested than in the revenue portion. It does not appear in this Bill, and therefore we are not in a position to judge of this Bill. We are more concerned in the possession and sale of exciseable articles than in the revenue derivable therefrom."

The Hon'ble MR. ELWORTHY said:—"I don't find section 16 in the printed copy of the Bill in my hand."

The Hon'ble the PRESIDENT said:—"I understand that there is nothing left out of the Bill, and that the only mistake is that there has been some slip in the numbering of the sections. Is that not so, Mr. Elworthy?"

The Hon'ble MR. ELWORTHY said:—"All the intermediate sections between section 14 and section 23 appear to have been omitted. From section 14 it goes off to section 23."

The Hon'ble the PRESIDENT said:—"I should like to explain to Hon'ble Members precisely what has occurred. If Hon'ble Members will look at section 7 of the Bill at the top of page 8, and run down the page, there is section 8; then follows section 9, and then on the top of the next page we have section 7 again, so that immediately after section 9 comes a second section 7, in the copy that has been circulated. That second section 7 ought to be section 10. Then section 7A should be section 11; section 8 following ought to be section 12; section 9, in Chapter III, ought to be section 13; section 9A ought to be 14, and section 9B ought to be 15; section 10 should be section 16; section 11 should be section 17; section 12 should be section 18; section 12A should be section 19; section 12C should be section 20; section 12D should be section 21; and section 14 should be section 22; and then we come to section 23. Nothing has been left out: there has only been a misprint in the numbering. Another copy is ready for circulation now. Are you satisfied with regard to this, Mr. Elworthy?"

The Hon'ble MR. ELWORTHY said:—"Yes. I am satisfied, Your Honour. I want to say a few words on this Bill, but the Hon'ble Mr. Buckland has not spoken on his Motion yet."

The Hon'ble MR. BUCKLAND said:—"At the last meeting of the Council when this Bill was introduced, I promised that I would speak at greater length on this occasion. With your permission I propose now to give a short history of the measure and to allude to some of the more important provisions of the Bill.

"So long ago as 1892-93 a question arose as to the importation and taxation of Shahjehanpore rum in connection with the prohibition of its importation into Bengal except under bond. The matter was of some difficulty and had to be referred to the Government of India, who had to legislate in the Act of 1896 to meet the point then at issue. When that matter was before the Government

of India, they, in correspondence with the Government of Bengal, said that it was open to the Local Government to amend their Excise Act if the Lieutenant-Governor desired it. The Government referred to the Board of Revenue, who in due course of time sent in a number of proposed amendments to the Act. In the succeeding year, 1895, the Board submitted more amendments, and a *précis* of 48 pages of opinions of officers. They were then told to redraft the Bill. In 1896 the Board submitted a revised Bill, a full Bill with 68 more pages of opinions from Government officers. That same year the Board submitted a revised Bill No. 2 with 46 pages of, '*précis* of opinion' of Government officers. I need not go through, even in this analytic way, all the correspondence, which has been of considerable length. It will be sufficient perhaps to say that, besides the two long lists of proposed amendments and correspondence, there have been letters on the subsidiary matters which have been incorporated in the Bill now before us. All the matters with which it was intended to deal in this consolidating and amending Bill have not survived the ordeal of the correspondence to which I have referred, and it is therefore unnecessary for me to refer to those which have dropped out of the main objects of the Bill as originally introduced. Those still surviving are the following: the better regulation of ganja warehouses, the removal of a defect in the law as to medicated liquor, the particular cases which have come before the Law Courts to which I shall have to refer at greater length hereafter, the legalization of different rates of duty, the export of exciseable articles, and the question of imprisonment in lieu of or in addition to fine on first conviction.

"Subsequently other subjects have cropped up, such as, the prohibition of employment of children in licensed premises and the necessity for a provision to prevent bottling for sale without a license. Provision has been made to meet all these points and many others, to which I will now invite the attention of the Council.

"I propose to run over the principal provisions of the Bill referred to in the Statement of Objects and Reasons. In the first paragraph of that Statement it will be seen that reference has been made to a proposal put forward by the Calcutta Wine, Spirit and Beer Association in which they ask that the bottling of wine and spirits for sale should be prohibited except under a license. That proposal was made by the Association so long ago as 1895 when they asked for this amendment of the law with a view to render more difficult fraud upon consumers by the sale to them of spurious imitations. It transpired that a great deal of cheap, white, silent, spirit was being imported from Germany and was being utilized for the manufacture of spirits and was being sold in the market in Calcutta and elsewhere under well-known names, while they were really spurious imitations. An inquiry was made into the matter at great length by Government, and it was ascertained that this stuff was not of a harmful character, but that there was no doubt that a fraud was being perpetrated upon consumers, who were led to believe that they were buying articles which were really genuine. The object of this provision of the Bill is to prevent German spirits sophisticated to resemble Whisky or Brandy from being sold as the genuine article.

"The next clause to which I need refer, is one which proposes to give power to the Board of Revenue, subject to the sanction of Government, full power to regulate the export of exciseable articles. The necessity of such provisions was brought to notice in connection with the export of *ganja* to London without pre-payment of duty. I suppose it can hardly be doubted that some provision is necessary to deal with this matter in our Excise Law.

"It is also necessary for the Board to have power to realize on any exciseable article imported from a Province in British India such duty as a Local Government has fixed in respect of a like article when manufactured in Bengal, or, if no like article is manufactured in Bengal, then such duty as the Local Government may fix on this behalf. The object of this provision is to ensure that dutiable articles consumed in Bengal should pay a proper duty.

"Another clause proposes to introduce a definition of 'Spirit.' The present Act contains no definition of 'Spirit,' but defines 'Spirituous liquor.'

[*Mr. Buckland.*]

This has been included for the reasons given in the Statement of Objects and Reasons. Then it will be within the power of the Local Government to declare what shall be deemed to be 'Country spirits' and 'Foreign liquor,' respectively.

"Referring to another matter, the present law fixes a maximum for the retail sale of each exciseable article, and difficulty has been felt from time time owing to the limit of the retail sale being stereotyped in the Act. It is therefore now proposed to reserve power to the Board to fix the limits of retail and wholesale, respectively, for the whole Province or any specified local area.

"In another clause it is proposed with regard to intoxicating drugs to deal with the collection as well as the cultivation of plants. As many Members of the Council are doubtless aware, most of the *bhang* which is used in this Province is collected from wild plants; it grows wild; it is not cultivated. It is therefore necessary to have power in the law to deal with the unlicensed collection of these intoxicating drugs.

"It is also proposed to take power to have all stills licensed. It will doubtless be a surprise to the Council to hear that the present law does not provide any punishment for the possession of an unlicensed still. When therefore the law provides that in future all stills are to be licensed, obviously any one in possession of an unlicensed still will be subject to a penalty.

"The Bill also proposes to give power to the Excise Commissioner to fix the limits for a distillery. At present only the District Officer has power to do this, but sometimes liquor is supplied from a distillery to more districts than one. It is therefore essential that somebody higher than the Collector should have power to fix these limits, so that two or more districts can get their supplies from the same distillery.

"It is also proposed to take power in the Bill for the establishment and regulation of warehouses for the storage of hemp drugs. There is a system now for the licensing of warehouses for these drugs in Bengal, and it is now proposed to take legal power for their establishment and regulation.

"It is also proposed to add to the rule-making powers of the Board in order to cover the new matter introduced into this Bill.

"I next come to a provision which is taken from the Madras Act. It has often been alleged that deleterious substances are used in the process of manufacture, and it has therefore been thought desirable that the Excise authorities should have power to prohibit the use of such substances or the use of particular flavouring or colouring matters in blending spirits for the market.

"I next come to an important provision. It is proposed that the law should be slightly amended, so as to prohibit absolutely the possession of even the smallest quantity of any exciseable article that has been illicitly obtained. I think the reasonableness of this provision speaks for itself.

"In a case which came before the High Court, it was decided that under the present law an excise-officer has no authority to enter and search a house in which a 'Foreign exciseable article' may be suspected to have been concealed. To meet this defect, a definition of 'Foreign exciseable' articles has been embodied, and the power given under clause 20 will refer to all exciseable articles generally.

"It will be within the recollection of the Council perhaps that by the Excise Bill passed into the Act of last spring, generally known as the Barmaid's Act, power was taken to prevent the employment of women on licensed premises. It is now proposed to go further and prevent the employment of children under twelve years of age.

"In another clause it is proposed to amend the law so as to render a license or permit liable to be summarily cancelled for any offence against the Excise Act or the Indian Merchandise Marks Act, or any section introduced into the Indian Penal Code by section 3 of the Merchandise Marks Act. The necessity for this has been shown by the case to which I referred very briefly a short time ago. The whole case is practically set out in paragraph 29 of the Statement of Objects and Reasons. At present, a person who holds two or more licenses and is an offender against the conditions of one of his licenses

could not be dealt with by having his other licenses cancelled. Under the law as it stands, he was allowed to continue in possession of the licenses which he held. It is now proposed that a breach of the conditions of any one of his licenses should render him liable to the cancellation of all his licenses.

"In another clause it is proposed that when a licensee surrenders his license, he should be required to pay up for the whole period of the currency of the license. This principle, which is a very sound one, will be tempered by a proviso to permit the Excise Commissioner to remit to the vendor any sum payable by him.

"It is also proposed to amend the present law so as to give excise-officers not below the rank of Sub-Inspectors the power to enter and inspect shops. The power of inspection is necessary if any good is to be done.

"There is another section in which it is proposed to dispense with the attendance of the police in the search of a house. At present an excise-officer, on receiving information, can only search in the presence of an officer of police not below the grade of a corporal or head-constable. As police-officers are not everywhere available immediately, many cases escape detection. This proposal will no doubt commend itself to the Council.

"In another clause, paragraph 41 of the Statement of Object and Reasons, it is proposed to require every person employed by Government to take all reasonable measures within his power to prevent the commission of any breaches of the Act.

"In another clause provision is made for bail being accepted and to render it obligatory that the bail, if the parties tender a proper amount, is accepted. The system is found to have worked well in Madras.

"It is also proposed to give legal authority to what has always been the practice in Bengal, *viz.*, the power of closing shops when troops are passing or when any disturbance is apprehended or is likely.

"In many cases, it has come to the notice of Government that simple imprisonment has not been found effective to induce accused persons to pay the fines imposed upon them. A list of cases spreading over two years has been prepared; and this list, which is in my possession, shows that this power to punish by fine only for the first offence is insufficient to secure an observance of the law. It is therefore proposed to take power to render an offender liable to imprisonment even in the case of a first offence, and not only as before in cases where a previous conviction has been proved.

"A provision is required in the law to meet the common case of licensed vendors of distillery liquor selling outstill liquor. There is no provision in the law at present under which they can be dealt with, except that they can be prosecuted for a breach of the conditions of their license and fined Rs. 50. Therefore further legal powers are required by the excise authorities to deal with such cases.

"In the present law there is power to punish a licensee, but not his servant, for certain breaches of his license, committed by the servant. A case has occurred before the Courts which shows that such power is not sufficient. It is desirable to assimilate the practice in Bengal to that in Madras and to render the holder of an excise license as well as the actual offender punishable for any offence committed by any person in the employment of the licensee or acting on his behalf as if he had himself committed the same, unless he can prove that all reasonable precautions were exercised by him to prevent the commission of the offence.

"It is also proposed to give the Collector, as distinct from the Magistrate, power to compromise cases of offences under the Excise Act.

"It is also proposed to amplify the present power in the law which the authorities possess to exempt certain articles from the provisions of the Act on special festivals or on special occasions.

"These, Sir, are the principal cases in which power is required to be taken to amend the law. I think that, when the Select Committee and the Council come to consider them in detail, it will be found that there is nothing in them which is not reasonably required for administrative purposes or which in any way conflicts with the liberty of the subject to any improper extent.

[*Mr. Buckland.*]

"I now, Sir, come to the proposals adverted to by the Hon'ble Advocate General at the last meeting of the Council. It will be remembered that the Hon'ble Advocate-General, whose absence from this meeting I regret to notice, referred to certain proposals which he had made before the Select Committee on the Barmaids' Bill last spring, the object of which was to more effectively watch over and prevent the supply of exciseable articles to drunkards or to children. The amendment which the Hon'ble Advocate-General proposed to introduce last February in the Barmaids' Bill was considered by the Select Committee to be acceptable in principle, but to be outside the limit or scope of the legislation then in hand. In fact, the matter was put off until the general revision of the Excise Act was taken in hand, with which we are now dealing and the Hon'ble Advocate-General withdrew his proposals on that occasion observing that effect was to some extent to be given to the principle of his proposals by the introduction of the conditions prohibiting the sale of intoxicating liquors and drugs to persons answering a certain description and to children.

"These proposals of the Hon'ble Advocate-General were duly considered by the Government during the summer. They referred the matter to the Board, and the Board obtained a report from the Excise Commissioner. The Excise Commissioner went into the matter very thoroughly, and showed that the particular proposals advanced by the Hon'ble Advocate-General were both impracticable, and, so far as this country was concerned, unnecessary. The Excise Commissioner laid particular stress upon the fact that the practical results of the proposed amendment of the law would be to throw upon the licensed vendor an impossible duty, and lead to the prosecution of ignorant offenders, and, it may be, to illegal gain in some places to the police and subordinate excise-officers.

"The Excise Commissioner has been watching the working of the new Law in England, and he felt himself justified in reporting that even in England the remedy was beset with serious difficulties, and that there was no reason to suppose that the evil existed in Bengal which it was the object of the Hon'ble Advocate-General's proposals to meet. I am referring especially so far to the matter of dealing with habitual drunkards. I think the Council know in a general way that in England people who are termed habitual drunkards are put on a black list, and are cut off from the supply of liquor. Now the Hon'ble Advocate General's proposals would go so far as to make a licensed vendor liable to punishment for the supply of liquor to habitual drunkards who may require liquor from them, although these licensed vendors may not be in a position to know the character of the particular person applying to be served with liquor. In fact, the whole object of this proposal of the Hon'ble Advocate General is to throw upon the licensed vendor the impossible duty of knowing the characters and careers of his customers, and it would also doubtless lead to great oppression on the part of the police and subordinate excise-officers were such power incorporated in the law. The Board in dealing with the question accepted the principle that the proposals of the Hon'ble Advocate-General must commend themselves to all persons interested in the sale of intoxicants, but they were at a loss to deal with the subject further owing to the vagueness of the proposals. The Hon'ble Advocate-General's proposals contained counsel of perfection, and it was impossible on the information then before the Board to know exactly what he meant, or what he proposed to do, and it was obviously very difficult to forecast all the subsidiary measures which would be required to give effect to them. The matter was reported to Government, who came to the conclusion that no necessity for legislation had been shown and there the matter rests.

"On the other hand, I may say that in the present Bill it will be quite possible to introduce conditions into the licenses to be granted to license vendors which will go a long way to prevent their supplying liquor to such classes as habitual drunkards or any others that may be proscribed in the Act.

"Under clause 42 of the Bill it is proposed to give power to the Board to make rules prescribing the form of any license or permit to be granted under the Act and the conditions and particulars which may be inserted therein. And later on in the same section it is stated that conditions may be laid down, one of them being a condition as to the kind of person or classes of persons to whom

a licensee may or may not sell exciseable articles. Under this clause and sub-clause it is considered that it will be quite possible to do what is sufficient and practicable to meet the proposals of the Hon'ble Advocate-General.

"With regard to children it will also be possible to lay down similar conditions. Perhaps the Council are not aware that now, in an outstill license, there is a provision which prohibits the sale of liquor to children under twelve years, and when this Bill has been passed into law, it will be perfectly easy to introduce similar conditions into all licenses preventing the supply of exciseable articles to children under twelve years, as well as to habitual drunkards.

"I think, Sir, I have at sufficient length taken up the time of this Council in stating the main points of the Bill before them. I have now to ask for leave to make the motion which stands in my name."

The HON'BLE MR. ELWORTHY said:—"I have read this Bill as carefully as time would permit, and I found very little in it to which the Association, which I represent, could take exception. On the other hand, there is much that gives satisfaction.

"The clauses dealing with the bottling of wines and spirits for sale, without a license, are highly satisfactory. The restriction to prevent the bottling of patent spirits, and the indiscriminate bottling of other spirits to represent the genuine article, is badly needed. This counterfeit has been carried on for many years, and it is to be hoped that, armed with law to help them, the excise-officers will be able to stop the practice. Clause 38 of Chapter VI is the principal clause of a Bill brought in this year, and passed a few months ago. There was some amount of agitation and feeling in this city over that Bill, and, although some of us were adverse at the time to undertaking class legislation of too domestic a nature, generally unpopular and frequently unwise, we were of opinion that there were evils in the city beyond those against which the legislation was specially directed. The Council are now called on to confirm their action in passing this Bill. The operation of the law then passed has since been in the hands of the Board of Revenue and the Commissioner of Police. Before we proceed with these clauses in Select Committee, it would be advisable to know what the effect of this Act has been, how far the evil has been overcome, and how many houses have been closed. The Hon'ble Member in charge of this Bill might, perhaps, be able to help us in getting this information from the Police.

"Chapter V deals with the farm of fees. I observe that this system exists, and it has, I believe, been in existence for years. It will be interesting to know if that principle acts beneficially or otherwise, or whether, on the other hand, the time has arrived for change in the system of departmental collection by means of excise-officers.

"The powers of the Board of Revenue are apparently rather despotic. It is presumed that some appeal is permissible in case the public is not satisfied with decisions and orders, especially in private cases.

"In Chapter III, under the heading of 'Sale and Possession,' I note that clause 13 deals with licenses, and that clause 13 (2) (*a*) refers to private consumption. On this I wish to say a few words. Clause 13 (2) (*a*) permits the sale of a person's effects when leaving a station or after decease, and it is a piece of special legislation. There is another form of sale to which I wish to draw the attention of the Council: the sale of exciseable articles by clubs for consumption by members off the club's premises. This is a subject of complaint from firms carrying on business in this country, who are expected to pay for their licenses and to pay the taxes of this country's government. Many of the clubs in India are very slightly removed from ordinary trading establishments, selling their stores for profit. To this no one has any very grave objection. It should not, however, be permitted without a license. If clubs sell exciseable articles for profit, they should be subject to the same rules as trading firms; and they should be compelled to take out a license, and, like other trading establishments, contribute to the expenses of the Government. Clause 94 gives the Magistrate the power to compound. The clause is a new one. We should be glad to hear from the Hon'ble Member in charge of the Bill his reasons showing why this system of compounding is allowable."

[*Babu Bhupendra Nath Basu; Rai Tarini Pershad, Bahadur.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—"I welcome the introduction of this measure in Your Honour's Council and under Your Honour's auspicies. Since the Act of 1878 a great many years have passed, and public opinion in Europe and America has been considerably exercised over this Excise question. The time has come when reforms should be introduced into the Excise system of this Province, and we are glad that an opportunity has been offered to us of placing before Your Honour's Council the suggestions of the public with regard to how the Excise-revenue ought to be realised and the system administered. It has been said that local option will be a remedy for the increase of drunkenness which has certainly taken place, whether this increase be due to the introduction of Western culture or to large bodies of men being removed from village life and being brought together in one place. Apart from the restrictions which village life imposed upon them, it is an undisputed fact that amongst the lowest classes, and especially the labouring classes, there has been a great increase of drunkenness more in town and cities than in villages. If we had local option, a great step would be taken towards the mitigation of this evil. I may instance a very recent case in which a grog-shop has been allowed to be started in this city in Cornwallis Street in the neighbourhood of Grey Street, and around this grog-shop had grown up houses of bad repute on the principal thoroughfare for school-going boys in the Indian part of the town. The thanks of the entire community are due to Mr. Bignell, the present Commissioner of Police, who has earned our gratitude by removing those houses from that locality and clearing the street from this danger. Though I regret to say that the popular element in the Corporation of Calcutta has been removed, yet under the guidance of the Hon'ble Mr. Greer, its present Chairman, I have no doubt that if a system of local option was allowed, grog-shops would not be allowed to grow up everywhere.

"We have also heard of the Gottenberg system which prevails on the Continent under which licenses are not granted to private individuals, but to Municipalities. The Municipality of Calcutta at one time urged upon the Government of this country for a contribution towards its revenue by giving them a part of the revenue derivable from excise in Calcutta. That was refused. But if Municipalities like that of Calcutta and other manufacturing towns were authorized and permitted to take in hand the sale of liquor, I have no doubt that, apart from the benefit which it would confer upon the public, it would materially benefit the revenue of those Municipalities, and my Hon'ble friend, Mr. Greer, would be saved many an uncomfortable hour.

"There is another provision which I think ought to find a place in this legislation, and that is the sale of exciseable goods to young children. Most of the Members of this Council are aware that the habit of cigarette-smoking and coccaine-drinking is increasing enormously among the juvenile public of this city and other large cities in India. The law, as it stands at present, has been unable to deal with these cases, and we see coccaine sold in betel shops and similar other places to the great injury of the young people who use them. In passing along the streets of Calcutta we see large numbers of young children smoking cigarettes. Their parents and guardians have felt themselves powerless to deal with this evil. I will not detain this Council by suggesting any means or remedies at this stage. I hope the Bill will receive very careful consideration in the Select Committee, and that the public bodies and Associations will be invited to offer their opinions on the Bill and the Bill will be so framed as to meet the exigencies of the case, without depriving the Government of its legitimate revenue, while at the same time checking, as far as possible, the increase in drunkenness and other evil habits."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"If not out of order and if permitted I will say a word in regard to the Bill which the Hon'ble Member in charge of it seeks to introduce. The Bill, copies of which have been circulated to Members of the Council, is a very important one from various points of view, and especially because the Government obtains a very large revenue from the Excise Department, and should therefore be kept up in a suitable manner.

[*Rai Tarini Pershad, Bahadur; Babu Saligram Singh; Mr. Shirres; Babu Bhupendra Nath Basu; the President.*]

"During the last sessions of the Council, the Excise Act came before it for its consideration in a very limited scope. The special modification then in contemplation was an urgent one. I had then proposed an amendment in regard to section 67 of the Act; but I was too late, and I was then told that almost the whole Act would shortly come before the Council for consideration and necessary amendments when I will have full opportunity to come with my own humble suggestions.

"I sincerely thank Your Honour's Government for permitting and the Hon'ble Member in charge for his motion to introduce the Bill.

"I need hardly say that as put forward by my learned and hon'ble friend, Babu Bhupendra Nath Basu, that drunkenness has increased to a very great extent, especially amongst the poor low classes of people which has led to ruination of many of them. There was a grog-shop in my village Gordi. The people of the village indulged in drunkenness to an extent which compelled me to apply to the then Collector of Monghyr, Mr. C. R. Marriott, who kindly removed it to a place called Pando, two miles away from Gordi.

"I am glad the Council will now have ample opportunity to deal with the details. I will also join with my learned hon'ble friend, Babu Bhupendra Nath, in pointing out the importance of the necessity of inviting public opinion in regard to this Bill before it becomes law."

The Hon'ble BABU SALIGRAM SINGH said:—"I trust that the opinion of the public bodies will be invited on this measure. I think they ought to be consulted, but I do not wish to take up the time of the Council by repeating what previous speakers have said on this point."

The Hon'ble MR. SHIRRES said:—"I wish to make just one or two observations with regard to the remarks which have fallen from the previous speakers. The Hon'ble Babu Bhupendra Nath Basu suggested that if the administration of Excise were made over to Municipalities, and they were allowed to get part of the revenue, it would to a great benefit to them. Of course, this is a very obvious proposition, and it is scarcely necessary to point out that if the Provincial Government gives up its revenue from Excise to Municipalities, it would have to propose additional taxation elsewhere."

The Hon'ble BABU BHUPENDRA NATH BASU said:—"That was not my meaning. My meaning was that instead of the sale being open to the public, to private individuals, it might be entrusted to the Municipalities."

The Hon'ble MR. SHIRRES said:—"I understood you to say that the Government should give up a part of its revenue from Excise to Municipalities, and that if we did so, the Hon'ble Mr. Greer would be saved many an anxious hour."

The Hon'ble the PRESIDENT said:—"The meaning of the Hon'ble Member was, I think, that the profits derived by private individuals should be derived by the Municipalities."

The Hon'ble MR. SHIRRES continued:—"I beg your pardon. I did not understand that. With regard to what has been said by the Hon'ble Mr. Elworthy as to the sale of liquors by mufassal clubs, I am inclined to think that there is a good deal of exaggeration in that. I have been in a good many districts, and in most of them there is no such thing as the selling of liquor in this way. My experience has been that as soon as a liquor shop starts or a refreshment-room is opened, the club ceases to sell every article except what is not procurable locally. The only exception is Darjeeling. I know of no other. They are not supposed to sell for profit; there is no information before us that they do sell for profit, and that they are in the same position as traders."

The Hon'ble the PRESIDENT said:—"I should like to make one or two observations with regard to the proposal of the Hon'ble Advocate-General and my promise to him at the last meeting of the Council. Before going on to say what I have to say in regard to that matter, which has been brought

[*The President.*]

fore us again to-day, I should like to make just one or two remarks. One is that undoubtedly we should do all that we can to get the advice and criticism of public bodies in regard to this Bill while it is still before the Select Committee, and before it has passed this Council. I hope that Hon'ble Members will realise that it is as much their duty as it is the duty of the Council as a whole to bring the matter before public bodies and elicit their opinion upon the subject. I have before my mind now a very valuable illustration of what may be done in this way. The remarks which we have heard from the Hon'ble Mr. Elworthy are the result of a very careful consultation with the body which he represents in this Council. Now this is an example which it would be well for us to follow. Where we represent, or where we have influence, let us do our best to secure the expression of public opinion before this Bill is passed.

"The only other matter which requires notice is the one I referred to when I rose. The other matters which have been brought before the Council by several Hon'ble Members are matters of detail, which will be discussed in the Select Committee, and I have no doubt that they will be fully threshed out there.

"But in regard to this matter of bringing the law of England into effect here in India in respect of habitual drunkards and in respect of children, I have one or two remarks to make. I promised the Hon'ble Mr. Woodroffe that I would consider the matter very carefully between last Saturday and now. I have done so. I have examined the papers carefully, and though I regret I have not been able to write out a formal statement of the conclusion that I have arrived at, yet I am able to lay before the Council the result of that examination.

"First of all, I desire to express my thorough agreement with what has already been said by an Hon'ble Member of Council to-day, that it is no argument whatever for the introduction of a measure in this country, that it has been introduced in England, and that we must suit our legislation to the circumstances of the country itself.

"There is another observation of the same Hon'ble Member which I desire emphatically to endorse, and that is that there is danger in increased police interference, and that until a strong case has been made out for police interference, this ought not to be resorted to. I do not think that we ought lightly to throw any such burden on the police or expose the people to possible exactions which undoubtedly this involves, especially in the interior.

"Now the first question which arises is, whether it is necessary to have this measure in India? I am very greatly in doubt on this point. I have examined the papers, and I find that the most experienced officers of Government have declared that in their opinion no case has been made out for such legislation in this country yet; and I find that my predecessor, Mr. Bourdillon, was of the same opinion, and on that account omitted this provision from the Bill. It would be absurd that I should, in the short acquaintance that I have had with this Province, profess to have information which would justify me in setting aside the opinion arrived at by the best advisers of Government and by my predecessor in office. I am therefore bound to say that, as at present advised, I do not see the necessity for the legislation which has been proposed.

"Suppose, however, that this necessity existed, is this particular form of action that which ought to be adopted to meet that necessity? On that point I have only two remarks to make. In the first place, it is an experiment even in England. While, as I have said, we are not bound to introduce any measure even if it succeeded in England, it would certainly be unwise to turn to England for example and bring from England a piece of legislation which is still even there only in an experimental state. We do not know whether the measure is succeeding or going to succeed in England.

"In the next place, if it did succeed in England, is it suitable to this country? As I have said before, I regard it as a very grave matter to legislate for any further interference on the part of the police, and I am not prepared to say that this particular mode of action in respect of the alleged evil would not be perhaps a more serious evil than the evil itself; whether we should not find that the cure was worse than the disease.

[*The President; Mr. Buckland; Mr. Shirres.*]

"I have also two other points which I think I ought to lay before the Council. One is that this Council could not undertake legislation in this direction without reference to the Government of India; and I am bound to say that I am not prepared at the present moment to make that reference on the grounds that I have already stated. The sanction of the Government of India would be necessary for including in the present legislation any provision of the kind.

"I should also like to point out, as has already been indicated by the Hon'ble Mr. Buckland, that we have a provision in this Bill which will enable us to deal with this matter. In the present Bill we have, under clause 42, sub-clause (*a*), power to make rules prescribing the form of any license and the conditions and particulars which may be inserted in it. And we have in clause (*iv*) power to make rules prescribing the insertion in any license granted under this Act conditions relating to the persons or classes of persons to whom a licensee may or may not sell excisable articles. We are therefore able in our licenses to deal with abuses as we find them arise.

"I desire therefore in conclusion to express my hearty sympathy with the views expressed by the Hon'ble Mr. Woodroffe last Saturday and by Hon'ble Members to-day with regard to the desirability of meeting any evil that may exist in this direction; and I promise on behalf of the Executive Government that we shall keep our eye on this matter and our attention fixed upon it; and as any evil arises and we are satisfied on the point, we will do all that we can under the existing provisions of the Act to meet it.

"I trust that this explanation will be satisfactory to the Council."

The Motion was then put and agreed to, and the Bill was read accordingly.

The Hon'ble MR. BUCKLAND then applied to the President to suspend the Rules of Business for the purpose of referring the Bill to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended,

The Hon'ble MR. BUCKLAND said:—"Before, Sir, I speak on this motion, I would ask leave to allude for one moment to a matter which you referred to in your speech just now. I allude to the intimation that Your Honour gave that all Public Bodies and Associations will be invited to send in their opinions upon this Bill. I will only take this opportunity of saying that these opinions should be sent in without any loss of time. The Select Committee ought to begin their sittings before long, and it will be unreasonable to ask the Select Committee to wait for an indefinite time for suggestions and proposals to be laid before them. I therefore venture to express the hope that any suggestions or representations upon the Bill which will now be published may be sent in without any unnecessary delay."

The Hon'ble Mr. Buckland moved that the Bill be referred to a Select Committee, consisting of the Hon'ble Mr. Hare, the Hon'be Mr. Gupta, the Hon'ble Mr. Shirres, the Hon'ble Mr. Elworthy, the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, the Hon'ble Babu Bhupendra Nath Basu, and the Mover.

The Motion was put and agreed to.

THE BENGAL TRAMWAYS (AMENDMENT) BILL, 1903.

The Hon'ble MR. SHIRRES introduced the Bill to amend the Bengal Tramways Act, 1883, and moved that it be read in Council.

The Motion was put and agreed to, and the Bill was read accordingly.

The Council was adjourned to Saturday, the 9th January, 1904.

CALCUTTA;
The 14th January, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council and Assistant Secretary to the Govt. of Bengal, Legislative Department.

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